

2008-2009

The Parliament of the  
Commonwealth of Australia

THE SENATE

**EXPOSURE DRAFT OF THE AUSTRALIAN GREENS  
OCTOBER 2009**

**Safe Climate (Emissions Trading  
Scheme) (Consequential Amendments)  
Bill 2009**

**No. , 2009**

*(Senator Milne)*

**A Bill for an Act to deal with consequential matters  
arising from the enactment of the *Safe Climate  
(Emissions Trading Scheme) Act 2009*, and for other  
purposes**



---

## Contents

1	Short title.....	1
2	Commencement.....	1
3	Schedule(s).....	2
<b>Schedule 1—General amendments</b>		<b>3</b>
Part 1—Amendments commencing at the same time as section 3 of the Safe Climate (Emissions Trading Scheme) Act 2009 commences		3
Division 1—Amendments		3
<i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i>		3
<i>Australian Securities and Investments Commission Act 2001</i>		3
<i>Corporations Act 2001</i>		4
<i>Financial Management and Accountability Regulations 1997</i>		4
<i>National Greenhouse and Energy Reporting Act 2007</i>		5
<i>Ozone Protection and Synthetic Greenhouse Gas Management Act 1989</i>		10
<i>Renewable Energy (Electricity) Act 2000</i>		11
<i>Trade Practices Act 1974</i>		13
Division 2—Transitional provisions		15
Part 2—Amendments commencing on 1 July 2011		21
Division 1—Amendments		21
<i>National Greenhouse and Energy Reporting Act 2007</i>		21
<i>Ozone Protection and Synthetic Greenhouse Gas Management Act 1989</i>		66
Division 2—Application and transitional provisions		72
Part 3—Amendments relating to facility reporting threshold		74
<i>National Greenhouse and Energy Reporting Act 2007</i>		74
Part 4—Amendments contingent on the commencement of Schedule 1 to the National Greenhouse and Energy Reporting Amendment Act 2009		75
<i>National Greenhouse and Energy Reporting Act 2007</i>		75
<b>Schedule 2—Taxation amendments</b>		<b>76</b>

---

---

<i>A New Tax System (Goods and Services Tax) Act 1999</i>	76
<i>Income Tax Assessment Act 1936</i>	77
<i>Income Tax Assessment Act 1997</i>	77
<i>Taxation Administration Act 1953</i>	107

1     **A Bill for an Act to deal with consequential matters**  
2     **arising from the enactment of the *Safe Climate***  
3     **(*Emissions Trading Scheme*) Act 2009, and for other**  
4     **purposes**

5     The Parliament of Australia enacts:

6     **1 Short title**

7                     This Act may be cited as the *Safe Climate (Emissions Trading*  
8                     *Scheme) (Consequential Amendments) Act 2009*.

9     **2 Commencement**

10                    (1) Each provision of this Act specified in column 1 of the table  
11                    commences, or is taken to have commenced, in accordance with  
12                    column 2 of the table. Any other statement in column 2 has effect  
13                    according to its terms.

---

**Commencement information**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	
2. Schedule 1, Part 1	At the same time as section 3 of the <i>Safe Climate (Emissions Trading Scheme) Act 2009</i> commences.	
3. Schedule 1, Part 2	1 July 2011.	1 July 2011
4. Schedule 1, Part 3	1 July 2012.	1 July 2012
5. Schedule 1, Part 4	At the same time as section 3 of the <i>Safe Climate (Emissions Trading Scheme) Act 2009</i> commences.	
6. Schedule 2	At the same time as section 3 of the <i>Safe Climate (Emissions Trading Scheme) Act 2009</i> commences.	

2

3

4

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

5

6

7

(2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

8

### **3 Schedule(s)**

9

10

11

12

(1) Each Act, and each set of regulations, that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

13

14

15

(2) The amendment of any regulation under subsection (1) does not prevent the regulation, as so amended, from being amended or repealed by the Governor-General.

1 **Schedule 1—General amendments**

2 **Part 1—Amendments commencing at the same time**  
3 **as section 3 of the Safe Climate (Emissions**  
4 **Trading Scheme) Act 2009 commences**

5 **Division 1—Amendments**

6 *Anti-Money Laundering and Counter-Terrorism Financing*  
7 *Act 2006*

8 **1 Section 5**

9 Insert:

10 *eligible emissions unit* has the same meaning as in the *Safe*  
11 *Climate (Emissions Trading Scheme) Act 2009*.

12 **2 Subsection 6(2) (after paragraph (b) of the cell at table**  
13 **item 33, column headed “Provision of a designated service”)**

14 Insert:

(ba) an eligible emissions unit; or

15 **3 Subsection 6(2) (paragraph (d) of the cell at table item 33,**  
16 **column headed “Provision of a designated service”)**

17 After “derivatives”, insert “, eligible emissions units”.

18 *Australian Securities and Investments Commission Act 2001*

19 **4 After paragraph 12BAA(7)(k)**

20 Insert:

21 (l) an Australian emissions unit;

22 (la) an eligible international emissions unit;

23 **5 Paragraph 12BAB(1)(g)**

24 After “financial product”, insert “(other than an Australian emissions  
25 unit or an eligible international emissions unit)”.

26 **6 At the end of subsection 127(2A)**

---

1 Add:  
2 ; (e) the Australian Climate Change Regulatory Authority.

3 ***Corporations Act 2001***

4 **7 Section 9**

5 Insert:

6 *Australian emissions unit* has the same meaning as in the *Safe*  
7 *Climate (Emissions Trading Scheme) Act 2009*.

8 **8 Section 9**

9 Insert:

10 *eligible international emissions unit* has the same meaning as in  
11 the *Safe Climate (Emissions Trading Scheme) Act 2009*.

12 **9 Section 9 (after paragraph (ma) of the definition of**  
13 ***managed investment scheme*)**

14 Insert:

15 (mb) a scheme that relates to forestry operations of any kind;

16 **10 After paragraph 764A(1)(k)**

17 Insert:

18 (l) an Australian emissions unit;

19 (la) an eligible international emissions unit;

20 ***Financial Management and Accountability Regulations 1997***

21 **11 Part 1 of Schedule 1 (after table item 104)**

22 Insert:

104A Australian Climate Change Regulatory Authority, Chair  
comprising:

(a) the Chair and the other members of the  
Australian Climate Change Regulatory  
Authority; and

(b) the staff mentioned in section 36 of the  
*Australian Climate Change Regulatory*  
*Authority Act 2009*; and

---

(c) the persons whose services are made available to the Australian Climate Change Regulatory Authority under section 37 of that Act; and

(d) the consultants engaged under subsection 38(1) of that Act.

*See Note B*

1 **12 Part 1 of Schedule 1 (table item 173)**

2 Repeal the item.

3 ***National Greenhouse and Energy Reporting Act 2007***

4 **13 Section 7**

5 Insert:

6 *Authority* means the Australian Climate Change Regulatory  
7 Authority.

8 **14 Section 7 (definition of *Greenhouse and Energy Data***  
9 ***Officer*)**

10 Repeal the definition.

11 **15 Section 7 (definition of *greenhouse and energy***  
12 ***information*)**

13 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

14 **16 Section 7**

15 Insert:

16 *official of the Authority* has the same meaning as in the *Australian*  
17 *Climate Change Regulatory Authority Act 2009*.

18 **17 Section 7**

19 Insert:

20 *protected information* has the same meaning as in the *Australian*  
21 *Climate Change Regulatory Authority Act 2009*.

22 **18 Paragraph 9(1)(b)**

23 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

---

1 **19 Paragraph 11(1)(b)**

2 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

3 **20 Paragraph 15(1)(a)**

4 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

5 **21 Subsections 16(1), (3) and (4)**

6 Omit “Greenhouse and Energy Data Officer” (wherever occurring),  
7 substitute “Authority”.

8 **22 Subsections 17(1), (2), (3) and (4)**

9 Omit “Greenhouse and Energy Data Officer” (wherever occurring),  
10 substitute “Authority”.

11 **23 Subsections 18(1) and (3)**

12 Omit “Greenhouse and Energy Data Officer” (wherever occurring),  
13 substitute “Authority”.

14 **24 Subsection 18(4)**

15 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

16 **25 Subsection 18(4)**

17 Omit “his or her”, substitute “the Authority’s”.

18 **26 Subsection 18(5)**

19 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

20 **27 Subsection 19(1)**

21 Omit “Greenhouse and Energy Data Officer” (wherever occurring),  
22 substitute “Authority”.

23 Note: The heading to section 19 is altered by omitting “Greenhouse and Energy Data  
24 Officer” and substituting “the Authority”.

25 **28 Subsections 19(6) and (9)**

26 Omit “Greenhouse and Energy Data Officer” (wherever occurring),  
27 substitute “Authority”.

28 **29 Subsection 20(1)**

29 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

---

1 **30 Subsections 20(2) and (3)**

2 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

3 **31 Subsections 20(4) and (5)**

4 Omit “Greenhouse and Energy Data Officer” (wherever occurring),  
5 substitute “Authority”.

6 **32 Subsections 21(1), (4) and (6)**

7 Omit “Greenhouse and Energy Data Officer” (wherever occurring),  
8 substitute “Authority”.

9 **33 Subsections 21A(1), (2) and (3)**

10 Omit “Greenhouse and Energy Data Officer” (wherever occurring),  
11 substitute “Authority”.

12 **34 Paragraphs 22(1)(b) and (2)(b)**

13 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

14 **35 After paragraph 23(1)(a)**

15 Insert:

16 (aa) the information is not protected information obtained by the  
17 person in the person’s capacity as an official of the  
18 Authority; and

19 **36 Paragraphs 23(2)(a) and (b)**

20 Repeal the paragraphs.

21 **37 At the end of section 23**

22 Add:

23 Note: See also Part 3 of the *Australian Climate Change Regulatory*  
24 *Authority Act 2009* (secrecy obligations of officials of the Authority).

25 **38 Subsections 24(1), (1A), (1B) and (1C)**

26 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

27 **39 Subsection 24(1C)**

28 Omit “he or she”, substitute “the Authority”.

29 **40 Subsections 24(2), (3), (5) and (6)**

---

1 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

2 **41 Subsection 25(1)**

3 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

4 **42 Subsections 25(2), (3) and (4)**

5 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

6 **43 Subsections 26(1), (2), (3), (4) and (5)**

7 Omit “Greenhouse and Energy Data Officer” (wherever occurring),  
8 substitute “Authority”.

9 **44 Subsections 27(1), (1A) and (2)**

10 Omit “Greenhouse and Energy Data Officer” (wherever occurring),  
11 substitute “Authority”.

12 **45 Subsections 28(1), (2) and (3)**

13 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

14 **46 Subsection 31(1)**

15 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

16 **47 Subsection 39(1)**

17 Omit “Greenhouse and Energy Data Officer” (wherever occurring),  
18 substitute “Authority”.

19 **48 Paragraph 40(1)(c)**

20 Omit “Greenhouse and Energy Data Officer” (wherever occurring),  
21 substitute “Authority”.

22 **49 Subsection 42(2)**

23 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

24 **50 Subsections 45(1), (3) and (4)**

25 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

26 **51 Subsections 46(1) and (2)**

27 Omit “Greenhouse and Energy Data Officer” (wherever occurring),  
28 substitute “Authority”.

---

1 **52 Division 1 of Part 6**

2 Repeal the Division.

3 **53 Division 2 of Part 6 (heading)**

4 Repeal the heading, substitute:

5 **Division 2—Decisions by the Authority**

6 **54 Subsection 54(1)**

7 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

8 Note: The heading to section 54 is altered by omitting “Greenhouse and Energy Data  
9 Officer” and substituting “Authority”.

10 **55 Paragraph 54(1)(b)**

11 Omit “his or her”, substitute “the Authority’s”.

12 **56 Subsections 54(2), (3), (4) and (5)**

13 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

14 **57 Subsection 54(5)**

15 Omit “he or she” (wherever occurring), substitute “the Authority”.

16 **58 Subsection 55(1)**

17 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

18 Note: The heading to section 55 is altered by omitting “Greenhouse and Energy Data  
19 Officer” and substituting “Authority”.

20 **59 Paragraph 55(1)(b)**

21 Omit “his or her”, substitute “the Authority’s”.

22 **60 Subsections 55(2) and (3)**

23 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

24 **61 Subsections 55(4) and (5)**

25 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

26 **62 Subsection 55(5)**

27 Omit “he or she” (wherever occurring), substitute “the Authority”.

---

1 **63 Section 56**

2 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

3 **64 Subsections 57(1) and (2)**

4 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

5 **65 Subsections 58(1) and (2)**

6 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

7 **66 Subsections 71(1), (2) and (4)**

8 Omit “Greenhouse and Energy Data Officer” (wherever occurring),  
9 substitute “Authority”.

10 **67 Subsection 73(1)**

11 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

12 **68 Subsection 73(2)**

13 Omit “Greenhouse and Energy Data Officer” (first occurring),  
14 substitute “Authority”.

15 **69 Subsection 73(5)**

16 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

17 **70 Subsections 74(1) and (2)**

18 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

19 ***Ozone Protection and Synthetic Greenhouse Gas***  
20 ***Management Act 1989***

21 **71 After section 67A**

22 Insert:

23 **67B Disclosure of information to the Australian Climate Change**  
24 **Regulatory Authority**

25 *Scope*

26 (1) This section applies to information obtained under this Act or the  
27 regulations.

---

1                    *Disclosure*

2                    (2) The Minister may disclose the information to the Australian  
3                    Climate Change Regulatory Authority for the purposes of, or in  
4                    connection with, the performance of the functions, or the exercise  
5                    of the powers, of the Australian Climate Change Regulatory  
6                    Authority.

7                    *Other powers of disclosure not limited*

8                    (3) This section does not, by implication, limit the Minister's powers  
9                    to disclose the information to a person other than the Australian  
10                    Climate Change Regulatory Authority.

11                    ***Renewable Energy (Electricity) Act 2000***

12                    **72 Subsection 5(1)**

13                    Insert:

14                    *Authority* means the Australian Climate Change Regulatory  
15                    Authority.

16                    **73 Subsection 5(1) (definition of *Office of the Renewable***  
17                    ***Energy Regulator*)**

18                    Repeal the definition.

19                    **74 Subsection 5(1)**

20                    Insert:

21                    *official of the Authority* has the same meaning as in the *Australian*  
22                    *Climate Change Regulatory Authority Act 2009*.

23                    **75 Subsection 5(1) (definition of *protected document*)**

24                    Repeal the definition.

25                    **76 Subsection 5(1) (definition of *protected information*)**

26                    Repeal the definition.

27                    **77 Subsection 5(1) (definition of *Regulator*)**

28                    Repeal the definition.

1 **78 Subsection 5(1) (definition of *senior employee*)**

2 Omit “Office of the Renewable Energy Regulator”, substitute  
3 “Authority”.

4 **79 Subsection 5(1) (definition of *senior officer*)**

5 Repeal the definition, substitute:

6 *senior officer* of the Authority means a person who:

7 (a) is a member of the staff of the Authority; and

8 (b) either:

9 (i) is an SES employee or acting SES employee; or

10 (ii) holds or performs the duties of an Executive Officer  
11 (Level 2) position.

12 **80 Subsection 5(1)**

13 Insert:

14 *staff of the Authority* has the same meaning as in the *Australian*  
15 *Climate Change Regulatory Authority Act 2009*.

16 **81 Subsection 30D(5)**

17 Omit “he or she”, substitute “the Authority”.

18 **82 Subsection 107(1)**

19 Omit “an officer or employee of the Office of the Renewable Energy  
20 Regulator”, substitute “a member of the staff of the Authority”.

21 **83 Part 12 (heading)**

22 Repeal the heading, substitute:

23 **Part 12—Publication of information**

24 **84 Sections 126 to 133**

25 Repeal the sections.

26 **85 Part 14**

27 Repeal the Part.

28 **86 Subsection 156(1)**

---

1 Omit “Office of the Renewable Energy Regulator”, substitute  
2 “Authority”.

3 Note: The heading to subsection 156(1) is altered by omitting “*Office of the Renewable*  
4 *Energy Regulator*” and substituting “*Authority*”.

5 **87 Bulk amendments—references to the Regulator etc.**

6 The *Renewable Energy (Electricity) Act 2000* other than the following  
7 provisions:

- 8 (a) sections 126, 129, 130, 131 and 132;  
9 (b) Part 14;

10 is amended as follows:

- 11 (c) by omitting “the Regulator” (wherever occurring) and  
12 substituting “the Authority”;  
13 (d) by omitting “The Regulator” (wherever occurring) and  
14 substituting “The Authority”;  
15 (e) by omitting “the Regulator’s” (wherever occurring) and  
16 substituting “the Authority’s”.

17 Note: The headings to sections and subsections of the *Renewable Energy (Electricity) Act*  
18 *2000* other than the following provisions:

- 19 (a) Part 14;  
20 (b) subsection 156(1);

21 are altered as follows:

- 22 (c) by omitting “**Regulator**” (wherever occurring) and substituting  
23 “**Authority**”;  
24 (d) by omitting “*Regulator*” (wherever occurring) and substituting  
25 “*Authority*”;  
26 (e) by omitting “**Regulator’s**” (wherever occurring) and substituting  
27 “**Authority’s**”;  
28 (f) by omitting “*Regulator’s*” (wherever occurring) and substituting  
29 “*Authority’s*”.

30 ***Trade Practices Act 1974***

31 **88 After paragraph 44AAF(3)(c)**

32 Insert:

- 33 (ca) the Australian Climate Change Regulatory Authority;

34 **89 Paragraph 44AAF(3)(d)**

35 Omit “(b) or (c)”, substitute “(b), (c) or (ca)”.

- 1 **90 After paragraph 155AAA(12)(I)**  
2           Insert:  
3           (1a) the Australian Climate Change Regulatory Authority;

1 **Division 2—Transitional provisions**

2 **91 Transitional—acts of the Greenhouse and Energy Data**  
3 **Officer to be attributed to the Australian Climate**  
4 **Change Regulatory Authority**

- 5 (1) This item applies to anything done by, or in relation to, the Greenhouse  
6 and Energy Data Officer under the *National Greenhouse and Energy*  
7 *Reporting Act 2007* before the commencement of this item.
- 8 (2) The *National Greenhouse and Energy Reporting Act 2007* has effect,  
9 after that commencement, as if the thing had been done by, or in  
10 relation to, the Australian Climate Change Regulatory Authority.

11 **92 Transitional—acts of the Renewable Energy Regulator to**  
12 **be attributed to the Australian Climate Change**  
13 **Regulatory Authority**

- 14 (1) This item applies to anything done by, or in relation to, the Renewable  
15 Energy Regulator under the *Renewable Energy (Electricity) Act 2000*  
16 before the commencement of this item.
- 17 (2) The *Renewable Energy (Electricity) Act 2000* has effect, after that  
18 commencement, as if the thing had been done by, or in relation to, the  
19 Australian Climate Change Regulatory Authority.

20 **93 Transitional—substitution of the Australian Climate**  
21 **Change Regulatory Authority as a party in certain**  
22 **proceedings**

- 23 (1) This item applies to proceedings to which the Greenhouse and Energy  
24 Data Officer or the Renewable Energy Regulator was a party and that  
25 were pending in any court or tribunal immediately before the  
26 commencement of this item.
- 27 (2) The Australian Climate Change Regulatory Authority is substituted for  
28 the Greenhouse and Energy Data Officer or the Renewable Energy  
29 Regulator, as the case requires, from that commencement, as a party to  
30 those proceedings.

31 **94 Transitional—transfer of records to the Australian Climate**  
32 **Change Regulatory Authority**

---

- 1 (1) This item applies to any records or documents that:
- 2 (a) were in the possession of the Greenhouse and Energy Data  
3 Officer or the Renewable Energy Regulator immediately  
4 before the commencement of this item; and
- 5 (b) relate to the Greenhouse and Energy Data Officer, the  
6 Renewable Energy Regulator or the Office of the Renewable  
7 Energy Regulator.
- 8 (2) The records and documents are to be transferred to the Australian  
9 Climate Change Regulatory Authority after the commencement of this  
10 item.

11 **95 Transitional—transfer of Ombudsman investigations**

- 12 If:
- 13 (a) before the commencement of this item, a complaint was  
14 made to the Ombudsman, or the Ombudsman began an  
15 investigation, under the *Ombudsman Act 1976* in relation to  
16 action taken by the Greenhouse and Energy Data Officer or  
17 the Renewable Energy Regulator; and
- 18 (b) immediately before the commencement of this item, the  
19 Ombudsman had not finally disposed of the matter in  
20 accordance with the *Ombudsman Act 1976*;
- 21 the *Ombudsman Act 1976* applies after the commencement of this item  
22 as if that action had been taken by the Australian Climate Change  
23 Regulatory Authority.

24 **96 Transitional—secrecy of information obtained under the**  
25 ***National Greenhouse and Energy Reporting Act 2007***

26 Despite the amendments of section 23 of the *National Greenhouse and*  
27 *Energy Reporting Act 2007* made by this Part, that section continues to  
28 apply, in relation to information obtained before the commencement of  
29 this item, as if those amendments had not been made.

30 **97 Transitional—secrecy of information obtained under the**  
31 ***Renewable Energy (Electricity) Act 2000***

- 32 Despite the repeal of the following provisions of the *Renewable Energy*  
33 *(Electricity) Act 2000* by this Part:
- 34 (a) the definition of *Office of the Renewable Energy Regulator*  
35 in subsection 5(1);
- 36 (b) the definition of *protected document* in subsection 5(1);
-

- 1 (c) the definition of *protected information* in subsection 5(1);  
2 (d) the definition of *Regulator* in subsection 5(1);  
3 (e) subsection 126(1);  
4 (f) sections 127 to 133;
- 5 those provisions continue to apply, in relation to:  
6 (g) a protected document obtained or made by a person before  
7 the commencement of this item; or  
8 (h) protected information disclosed to, or obtained by, a person  
9 before the commencement of this item;
- 10 as if:  
11 (i) each reference in sections 129, 130, 131 and 132 of that Act  
12 to the Regulator were a reference to the Australian Climate  
13 Change Regulatory Authority; and  
14 (j) the reference in section 129 to a person to whom Part 12 of  
15 that Act applies were a reference to an official of the  
16 Authority; and  
17 (k) those repeals had not happened.

18 **98 Transitional—references in instruments to the**  
19 **Greenhouse and Energy Data Officer or the Renewable**  
20 **Energy Regulator**

- 21 (1) For the purposes of this item, an *eligible instrument* is an instrument  
22 that:  
23 (a) was in force immediately before the commencement of this  
24 item; and  
25 (b) contains a reference to the Greenhouse and Energy Data  
26 Officer or the Renewable Energy Regulator.
- 27 (2) The Minister may, by legislative instrument, declare that a specified  
28 eligible instrument has effect as if each reference in the instrument to  
29 the Greenhouse and Energy Data Officer or the Renewable Energy  
30 Regulator, as the case may be, were a reference to the Australian  
31 Climate Change Regulatory Authority.

32 **99 Transitional—Registry accounts**

33 *Scope*

- 34 (1) This item applies to an account held by a person within the register:
-

- 1 (a) known as the Australian National Registry of Emissions  
2 Units; and  
3 (b) that was in existence under the executive power of the  
4 Commonwealth immediately before the commencement of  
5 this item.

6 *Continuation of account*

- 7 (2) The account continues in existence as a Registry account under the *Safe*  
8 *Climate (Emissions Trading Scheme) Act 2009*.

9 **100 Transitional—Commonwealth Registry accounts**

10 *Scope*

- 11 (1) This item applies to an account held by the Commonwealth within the  
12 register:  
13 (a) known as the Australian National Registry of Emissions  
14 Units; and  
15 (b) that was in existence under the executive power of the  
16 Commonwealth immediately before the commencement of  
17 this item.

18 *Designation of account*

- 19 (2) If, immediately before the commencement of this item, the account was  
20 described as a Commonwealth holding account, the *Safe Climate*  
21 *(Emissions Trading Scheme) Act 2009* has effect as if the account had  
22 been designated by the Australian Climate Change Regulatory  
23 Authority as a Commonwealth holding account.
- 24 (3) If, immediately before the commencement of this item, the account was  
25 described as the retirement account for the first commitment period, the  
26 *Safe Climate (Emissions Trading Scheme) Act 2009* has effect as if the  
27 account had been designated by the Australian Climate Change  
28 Regulatory Authority as the retirement account for the first commitment  
29 period.
- 30 (4) If, immediately before the commencement of this item, the account was  
31 described as the net source cancellation account for the first  
32 commitment period, the *Safe Climate (Emissions Trading Scheme) Act*  
33 *2009* has effect as if the account had been designated by the Australian

- 1 Climate Change Regulatory Authority as the net source cancellation  
2 account for the first commitment period.
- 3 (5) If, immediately before the commencement of this item, a  
4 Commonwealth Registry account was described as the non-compliance  
5 cancellation account for the first commitment period, the *Safe Climate*  
6 *(Emissions Trading Scheme) Act 2009* has effect as if the account had  
7 been designated by the Australian Climate Change Regulatory  
8 Authority as the non-compliance cancellation account for the first  
9 commitment period.
- 10 (6) If, immediately before the commencement of this item, the account was  
11 described as the voluntary cancellation account for the first commitment  
12 period, the *Safe Climate (Emissions Trading Scheme) Act 2009* has  
13 effect as if the account had been designated by the Australian Climate  
14 Change Regulatory Authority as the voluntary cancellation account for  
15 the first commitment period.
- 16 (7) If, immediately before the commencement of this item, the account was  
17 described as the mandatory cancellation account for the first  
18 commitment period, the *Safe Climate (Emissions Trading Scheme) Act*  
19 *2009* has effect as if the account had been designated by the Australian  
20 Climate Change Regulatory Authority as the mandatory cancellation  
21 account for the first commitment period.
- 22 (8) If, immediately before the commencement of this item, a  
23 Commonwealth Registry account was described as the tCER  
24 replacement (expiry) cancellation account for the first commitment  
25 period, the *Safe Climate (Emissions Trading Scheme) Act 2009* has  
26 effect as if the account had been designated by the Australian Climate  
27 Change Regulatory Authority as the tCER replacement (expiry)  
28 cancellation account for the first commitment period.
- 29 (9) If, immediately before the commencement of this item, the account was  
30 described as the ICER replacement (expiry) cancellation account for the  
31 first commitment period, the *Safe Climate (Emissions Trading Scheme)*  
32 *Act 2009* has effect as if the account had been designated by the  
33 Australian Climate Change Regulatory Authority as the ICER  
34 replacement (expiry) cancellation account for the first commitment  
35 period.
- 36 (10) If, immediately before the commencement of this item, the account was  
37 described as the ICER replacement (storage reversal) cancellation  
38 account for the first commitment period, the *Safe Climate (Emissions*
-

**Schedule 1** General amendments

**Part 1** commences

---

1            *Trading Scheme) Act 2009* has effect as if the account had been  
2            designated by the Australian Climate Change Regulatory Authority as  
3            the ICER replacement (storage reversal) cancellation account for the  
4            first commitment period.

5            (11) If, immediately before the commencement of this item, the account was  
6            described as the ICER replacement (non-certification) cancellation  
7            account for the first commitment period, the *Safe Climate (Emissions*  
8            *Trading Scheme) Act 2009* has effect as if the account had been  
9            designated by the Australian Climate Change Regulatory Authority as  
10           the ICER replacement (non-certification) cancellation account for the  
11           first commitment period.

12           **101 Transitional—regulations**

13           The Governor-General may make regulations in relation to transitional  
14           matters arising out of the amendments made by this Part.

1 **Part 2—Amendments commencing on 1 July 2011**

2 **Division 1—Amendments**

3 ***National Greenhouse and Energy Reporting Act 2007***

4 **102 Section 3**

5 Before “The”, insert “(1)”.

6 Note: The heading to section 3 is replaced by the heading “**Objects**”.

7 **103 Section 3**

8 Before “object”, insert “first”.

9 **104 Paragraph 3(a)**

10 Repeal the paragraph.

11 **105 At the end of section 3**

12 Add:

13 (2) The second object of this Act is to underpin the *Safe Climate*  
14 *(Emissions Trading Scheme) Act 2009* by imposing various  
15 registration, reporting and record-keeping requirements.

16 **106 Section 4**

17 Before “This Act”, insert “(1)”.

18 **107 Section 4**

19 After “This Act”, insert “(except to the extent to which it underpins the  
20 *Safe Climate (Emissions Trading Scheme) Act 2009*)”.

21 **108 At the end of section 4**

22 Add:

23 (2) To the extent to which this Act underpins the *Safe Climate*  
24 *(Emissions Trading Scheme) Act 2009*, this Act relies on the same  
25 legislative powers that support the *Safe Climate (Emissions*  
26 *Trading Scheme) Act 2009*.

27 **109 Section 5**

---

1 Before “This Act”, insert “(1)”.

2 **110 Subparagraph 5(a)(i)**

3 Repeal the subparagraph.

4 **111 Paragraph 5(b)**

5 Omit “this section”, substitute “this subsection”.

6 **112 At the end of section 5**

7 Add:

8 (2) This Act is intended to apply to the exclusion of a law of a State or  
9 Territory, or a part of such a law:

10 (a) that provides for the reporting or disclosure of information  
11 related to greenhouse gas emissions; and

12 (b) that the regulations provide is a law, or part of a law, to  
13 which this subsection applies;

14 so far as the law, or part of the law, would otherwise apply in  
15 relation to a person other than:

16 (c) a local governing body; or

17 (d) a statutory authority (within the meaning of the *Safe Climate*  
18 *(Emissions Trading Scheme) Act 2009*) of a State or  
19 Territory.

20 **113 After section 5**

21 Insert:

22 **5A Crown to be bound**

23 (1) This Act binds the Crown in each of its capacities.

24 (2) This Act does not make the Crown liable to a pecuniary penalty or  
25 to be prosecuted for an offence.

26 (3) The protection in subsection (2) does not apply to an authority of  
27 the Crown.

28 **114 Section 6**

29 Repeal the section, substitute:

1 **6 Extension to external Territories**

2 This Act extends to every external Territory.

3 **6A Extension to exclusive economic zone and continental shelf**

4 This Act extends to a matter relating to the exercise of Australia's  
5 sovereign rights in the exclusive economic zone or the continental  
6 shelf.

7 **6B Extension to Joint Petroleum Development Area**

8 This Act extends to the Joint Petroleum Development Area.

9 **6C Application to foreign ships**

10 This Act does not apply to the extent that its application would be  
11 inconsistent with the exercise of rights of foreign ships in:

- 12 (a) the territorial sea; or  
13 (b) the exclusive economic zone; or  
14 (c) waters of the continental shelf;

15 in accordance with the United Nations Convention on the Law of  
16 the Sea.

17 **115 Section 7**

18 Insert:

19 *activity* includes:

- 20 (a) a condition; or  
21 (b) a circumstance; or  
22 (c) a state of affairs;

23 relating to:

- 24 (d) solid waste; or  
25 (e) carbon capture and storage; or  
26 (f) other storage; or  
27 (g) stockpiling; or  
28 (h) any other matter or thing.

29 **116 Section 7**

30 Insert:

---

1 *approved by the Authority* means approved by the Authority, in  
2 writing, for the purposes of the provision in which the term occurs.

3 Note: For variation and revocation, see subsection 33(3) of the *Acts*  
4 *Interpretation Act 1901*.

5 **117 Section 7**

6 Insert:

7 *carbon capture and storage* means:

- 8 (a) the storage of a greenhouse gas substance in a part of a  
9 geological formation; or  
10 (b) the injection of a greenhouse gas substance into a part of a  
11 geological formation for the purposes of such storage; or  
12 (c) the capture, compression, processing, offloading,  
13 transportation or piped conveyance of a greenhouse gas  
14 substance, where the compression, processing, offloading,  
15 transportation or piped conveyance is for the purposes of  
16 such storage.

17 An expression used in this definition has the same meaning as in  
18 the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.  
19 For this purpose, assume that each reference in the definition of  
20 *greenhouse gas substance* in section 7 of that Act to a prescribed  
21 greenhouse gas were a reference to a greenhouse gas (within the  
22 meaning of this Act).

23 **118 Section 7 (definition of *carbon dioxide equivalence*)**

24 Repeal the definition, substitute:

25 *carbon dioxide equivalence*:

- 26 (a) of an amount of greenhouse gas—means the amount of the  
27 gas multiplied by a value specified in the regulations in  
28 relation to that kind of greenhouse gas; or  
29 (b) of an amount of potential greenhouse gas emissions  
30 embodied in an amount of an eligible upstream fuel—has the  
31 meaning given by section 7D.

32 **119 Section 7**

33 Insert:

34 *emissions trading scheme* has the same meaning as in the *Safe*  
35 *Climate (Emissions Trading Scheme) Act 2009*.

---

1 **120 Section 7**

2 Insert:

3 *continental shelf* has the same meaning as in the *Seas and*  
4 *Submerged Lands Act 1973*.

5 **121 Section 7**

6 Insert:

7 *eligible financial year* has the same meaning as in the *Safe Climate*  
8 *(Emissions Trading Scheme) Act 2009*.

9 **122 Section 7**

10 Insert:

11 *eligible upstream fuel* has the same meaning as in the *Safe Climate*  
12 *(Emissions Trading Scheme) Act 2009*.

13 **123 Section 7 (definition of *emission*)**

14 Repeal the definition, substitute:

15 *emission* of greenhouse gas means:  
16 (a) a scope 1 emission of greenhouse gas; or  
17 (b) a scope 2 emission of greenhouse gas.

18 **124 Section 7**

19 Insert:

20 *emissions number* has the same meaning as in the *Safe Climate*  
21 *(Emissions Trading Scheme) Act 2009*.

22 **125 Section 7**

23 Insert:

24 *executive officer* of a body corporate means:  
25 (a) a director of the body corporate; or  
26 (b) the chief executive officer (however described) of the body  
27 corporate; or  
28 (c) the chief financial officer (however described) of the body  
29 corporate; or  
30 (d) the secretary of the body corporate.

1 **126 Section 7**

2 Insert:

3 *foreign country* has the same meaning as in the *Safe Climate*  
4 *(Emissions Trading Scheme) Act 2009*.

5 **127 Section 7**

6 Insert:

7 *foreign person* means any of the following:

- 8 (a) an individual who is not ordinarily resident in Australia;
- 9 (b) a body corporate that:
- 10 (i) is incorporated outside Australia; or
- 11 (ii) is an authority of a foreign country;
- 12 (c) a corporation sole that:
- 13 (i) is incorporated outside Australia; or
- 14 (ii) is an authority of a foreign country;
- 15 (d) a body politic of a foreign country;
- 16 (e) a trust, where the trustee, or a majority of the trustees, are
- 17 covered by any or all of the above paragraphs.

18 **128 Section 7 (definition of *greenhouse and energy audit*)**

19 Omit “74A”, substitute “74C”.

20 **129 Section 7 (definition of *greenhouse gas*)**

21 Repeal the definition, substitute:

22 *greenhouse gas* has the meaning given by section 7A.

23 **130 Section 7 (paragraph (b) of the definition of *greenhouse***  
24 ***gas project*)**

25 Omit “regulations;”, substitute “regulations.”.

26 **131 Section 7 (definition of *greenhouse gas project*)**

27 Omit all the words from and including “but” to the end of the definition.

28 **132 Section 7 (definition of *group*)**

29 Omit “subsection 8(1)”, substitute “section 8”.

1 **133 Section 7**

2 Insert:

3 *import* has the same meaning as in the *Safe Climate (Emissions*  
4 *Trading Scheme) Act 2009*.

5 **134 Section 7 (definition of *innocent passage*)**

6 Repeal the definition.

7 **135 Section 7**

8 Insert:

9 *Joint Petroleum Development Area* has the same meaning as in  
10 the *Petroleum (Timor Sea Treaty) Act 2003*.

11 **136 Section 7 (definition of *joint venture*)**

12 Repeal the definition.

13 **137 Section 7**

14 Insert:

15 *liable entity* has the same meaning as in the *Safe Climate*  
16 *(Emissions Trading Scheme) Act 2009*.

17 **138 Section 7**

18 Insert:

19 *liability transfer certificate* has the same meaning as in the *Safe*  
20 *Climate (Emissions Trading Scheme) Act 2009*.

21 **139 Section 7**

22 Insert:

23 *local governing body* means a local governing body established by  
24 or under a law of a State or Territory.

25 **140 Section 7 (definition of *member*)**

26 Before “has”, insert “, in relation to a group,”.

27 **141 Section 7**

28 Insert:

---

1                    *non-group entity* means a person who is not a member of a  
2                    controlling corporation's group.

3                    **142 Section 7 (definition of *oil or gas extraction activity*)**

4                    Repeal the definition.

5                    **143 Section 7**

6                    Insert:

7                    *operation*, in relation to a facility, includes the subsistence of the  
8                    facility.

9                    **144 Section 7**

10                  Insert:

11                  *OTN* has the same meaning as in the *Safe Climate (Emissions*  
12                  *Trading Scheme) Act 2009*.

13                  **145 Section 7 (definition of *operational control*)**

14                  Omit "11", substitute "11, 11A, 11B or 11C".

15                  **146 Section 7**

16                  Insert:

17                  *person* means any of the following:

- 18                  (a) an individual;  
19                  (b) a body corporate;  
20                  (c) a trust;  
21                  (d) a corporation sole;  
22                  (e) a body politic;  
23                  (f) a local governing body.

24                  **147 Section 7**

25                  Insert:

26                  *potential greenhouse gas emissions* embodied in an amount of an  
27                  eligible upstream fuel has the meaning given by section 7C.

28                  **148 Section 7**

29                  Insert:

---

1                    *provisional emissions number* has the same meaning as in the *Safe*  
2                    *Climate (Emissions Trading Scheme) Act 2009*.

3                    **149 Section 7**

4                    Insert:

5                    *quote*, in relation to an OTN, has the same meaning as in the *Safe*  
6                    *Climate (Emissions Trading Scheme) Act 2009*.

7                    **150 Section 7 (definition of registered corporation)**

8                    Omit “Division 3 of Part 2”, substitute “this Act”.

9                    **151 Section 7**

10                  Insert:

11                  *registered person* means a person registered under this Act.

12                  **152 Section 7**

13                  Insert:

14                  *scope 1 emission* of greenhouse gas has the meaning given by  
15                  section 10.

16                  **153 Section 7**

17                  Insert:

18                  *scope 2 emission* of greenhouse gas has the meaning given by  
19                  section 10.

20                  **154 Section 7**

21                  Insert:

22                  *supply* has the same meaning as in the *Safe Climate (Emissions*  
23                  *Trading Scheme) Act 2009*.

24                  **155 Section 7**

25                  Insert:

26                  *synthetic greenhouse gas* has the meaning given by section 7B.

27                  **156 Section 7**

---

1           Insert:

2                   *territorial sea* has the same meaning as in the *Seas and Submerged*  
3                   *Lands Act 1973*.

4       **157 Section 7**

5           Insert:

6                   *trust* means a person in the capacity of trustee or, as the case  
7                   requires, a trust estate.

8       **158 Section 7**

9           Insert:

10                   *trustee* has the same meaning as in the *Income Tax Assessment Act*  
11                   *1997*.

12       **159 Section 7**

13           Insert:

14                   *trust estate* has the same meaning as in the *Income Tax Assessment*  
15                   *Act 1997*.

16       **160 Section 7**

17           Insert:

18                   *United Nations Convention on the Law of the Sea* means the  
19                   United Nations Convention on the Law of the Sea done at Montego  
20                   Bay on 10 December 1982.

21           Note:       The text of the Convention is set out in Australian Treaty Series 1994  
22                        No. 31 ([1994] ATS 31). In 2009, the text of an international  
23                        agreement in the Australian Treaty Series was accessible through the  
24                        Australian Treaties Library on the AustLII website  
25                        ([www.austlii.edu.au](http://www.austlii.edu.au)).

26       **161 After section 7**

27           Insert:

28       **7A Greenhouse gas**

29                   For the purposes of this Act and the *Safe Climate (Emissions*  
30                   *Trading Scheme) Act 2009*, each of the following is a **greenhouse**  
31                   **gas**:

---

- 1 (a) carbon dioxide;  
2 (b) methane;  
3 (c) nitrous oxide;  
4 (d) a synthetic greenhouse gas;  
5 (e) a prescribed gas.

6 **7B Synthetic greenhouse gas**

- 7 (1) For the purposes of this Act and the *Safe Climate (Emissions*  
8 *Trading Scheme) Act 2009*, each of the following is a **synthetic**  
9 **greenhouse gas**:  
10 (a) sulphur hexafluoride;  
11 (b) a hydrofluorocarbon of a kind specified in the table in  
12 subsection (2);  
13 (c) a perfluorocarbon of a kind specified in the table in  
14 subsection (3).

15 *Table 1—Hydrofluorocarbons*

- 16 (2) Table 1 is as follows:  
17

<b>Hydrofluorocarbons</b>		
<b>Item</b>	<b>Hydrofluorocarbon</b>	<b>Chemical formula</b>
1	HFC-23	CHF <sub>3</sub>
2	HFC-32	CH <sub>2</sub> F <sub>2</sub>
3	HFC-41	CH <sub>3</sub> F
4	HFC-43-10mee	C <sub>5</sub> H <sub>2</sub> F <sub>10</sub>
5	HFC-125	C <sub>2</sub> HF <sub>5</sub>
6	HFC-134	C <sub>2</sub> H <sub>2</sub> F <sub>4</sub> (CHF <sub>2</sub> CHF <sub>2</sub> )
7	HFC-134a	C <sub>2</sub> H <sub>2</sub> F <sub>4</sub> (CH <sub>2</sub> FCF <sub>3</sub> )
8	HFC-143	C <sub>2</sub> H <sub>3</sub> F <sub>3</sub> (CHF <sub>2</sub> CH <sub>2</sub> F)
9	HFC-143a	C <sub>2</sub> H <sub>3</sub> F <sub>3</sub> (CF <sub>3</sub> CH <sub>3</sub> )
10	HFC-152a	C <sub>2</sub> H <sub>4</sub> F <sub>2</sub> (CH <sub>3</sub> CHF <sub>2</sub> )
11	HFC-227ea	C <sub>3</sub> HF <sub>7</sub>
12	HFC-236fa	C <sub>3</sub> H <sub>2</sub> F <sub>6</sub>
13	HFC-245ca	C <sub>3</sub> H <sub>3</sub> F <sub>5</sub>

18

Table 2—Perfluorocarbons

(3) Table 2 is as follows:

Perfluorocarbons		
Item	Perfluorocarbon	Chemical formula
1	Perfluoromethane (tetrafluoromethane)	CF <sub>4</sub>
2	Perfluoroethane (hexafluoroethane)	C <sub>2</sub> F <sub>6</sub>
3	Perfluoropropane	C <sub>3</sub> F <sub>8</sub>
4	Perfluorobutane	C <sub>4</sub> F <sub>10</sub>
5	Perfluorocyclobutane	c-C <sub>4</sub> F <sub>8</sub>
6	Perfluoropentane	C <sub>5</sub> F <sub>12</sub>
7	Perfluorohexane	C <sub>6</sub> F <sub>14</sub>

**7C Potential greenhouse gas emissions embodied in an amount of eligible upstream fuel**

(1) For the purposes of this Act and the *Safe Climate (Emissions Trading Scheme) Act 2009*, the **potential greenhouse gas emissions** embodied in an amount of eligible upstream fuel is:

- (a) the amount of the greenhouse gas; or
- (b) the amounts of the greenhouse gases;

that would be released into the atmosphere as a result of the combustion of the amount of the fuel.

*Default method*

(2) The Minister may determine that the amount of a particular greenhouse gas that would be released into the atmosphere as a result of the combustion of an amount of eligible upstream fuel is taken, for the purposes of:

- (a) this Act (other than subsections (3) and (4) of this section); and
- (b) the *Safe Climate (Emissions Trading Scheme) Act 2009*;

to be the amount of the fuel multiplied by a value specified in the determination in relation to that kind of fuel.

1 *Prescribed alternative method*

2 (3) However, if:

- 3 (a) a report relating to an eligible financial year was given by a  
4 person under section 22A; and  
5 (b) the report was given before the end of 4 months after the end  
6 of the eligible financial year; and  
7 (c) ascertaining the potential greenhouse emissions embodied in  
8 an amount of eligible upstream fuel is relevant to working  
9 out a provisional emissions number of the person for the  
10 eligible financial year; and  
11 (d) the report contained a statement to the effect that the person  
12 has made a choice to use the prescribed alternative method to  
13 ascertain the potential greenhouse gas emissions; and  
14 (e) the prescribed alternative method was complied with in  
15 ascertaining the potential greenhouse gas emissions;

16 then, for the purposes of this Act and the *Safe Climate (Emissions*  
17 *Trading Scheme) Act 2009*:

- 18 (f) the potential greenhouse gas emissions are to be ascertained  
19 in accordance with the prescribed alternative method; and  
20 (g) a determination under subsection (2) does not apply in  
21 ascertaining the potential greenhouse gas emissions.

22 (4) For the purposes of this section, the *prescribed alternative method*  
23 is a method that:

- 24 (a) is for ascertaining the potential greenhouse gas emissions  
25 embodied in an amount of eligible upstream fuel; and  
26 (b) is specified in a determination made by the Minister; and  
27 (c) involves testing one or more samples of the fuel.

28 *Combustion*

29 (5) The Minister may determine that, for the purposes of this section, it  
30 is to be assumed that the *combustion* of an amount of eligible  
31 upstream fuel takes place in the circumstances specified in the  
32 determination in relation to that kind of fuel.

33 *Determination*

34 (6) A determination made under subsection (2), (4) or (5) is a  
35 legislative instrument.

1 **7D Carbon dioxide equivalence of potential greenhouse gas**  
2 **emissions embodied in an amount of eligible upstream**  
3 **fuel**

4 *Scope*

- 5 (1) This section applies if the potential greenhouse gas emissions  
6 embodied in an amount of eligible upstream fuel consists of:  
7 (a) an amount of a greenhouse gas; or  
8 (b) amounts of one or more greenhouse gases.

9 *Carbon dioxide equivalence*

- 10 (2) For the purposes of this Act and the *Safe Climate (Emissions*  
11 *Trading Scheme) Act 2009*, the **carbon dioxide equivalence** of the  
12 potential greenhouse gas emissions is the total of the carbon  
13 dioxide equivalence of that amount of greenhouse gas or those  
14 amounts of greenhouse gases.

15 **162 Subsection 8(1)**

16 Omit “A controlling”, substitute “For the purposes of this Act and the  
17 *Safe Climate (Emissions Trading Scheme) Act 2009*, a controlling”.

18 **163 Paragraph 8(1)(b)**

19 Omit “(if any);”, substitute “(if any).”.

20 **164 Paragraphs 8(1)(c) and (d)**

21 Repeal the paragraphs.

22 **165 Subsections 8(4), (5) and (6)**

23 Repeal the subsections, substitute:

- 24 (4) To avoid doubt, a controlling corporation’s **group** may consist of  
25 the controlling corporation alone.

26 **166 Subsection 9(1)**

27 Omit “A **facility** is”, substitute “For the purposes of this Act and the  
28 *Safe Climate (Emissions Trading Scheme) Act 2009*, a **facility** is”.

29 **167 Subsection 9(1)**

30 Omit “the production of” (first occurring).

---

1 **168 Paragraph 9(1)(b)**

2 Omit “54;”, substitute “54 or 54A.”.

3 **169 Subsection 9(1)**

4 Omit all the words from and including “but” to the end of the  
5 subsection.

6 **170 Subsection 9(3)**

7 Repeal the subsection.

8 **171 Subsection 10(1)**

9 After “References”, insert “in this Act or the *Safe Climate (Emissions*  
10 *Trading Scheme) Act 2009*”.

11 **172 Paragraph 10(1)(a)**

12 Repeal the paragraph, substitute:

13 (a) *scope 1 emission* of greenhouse gas;

14 (aa) *scope 2 emission* of greenhouse gas;

15 **173 Subsection 10(2)**

16 Omit “paragraph (1)(a) may specify a meaning of emissions”, substitute  
17 “paragraph (1)(aa) may specify a meaning of scope 2 emission”.

18 **174 After subsection 10(2)**

19 Insert:

20 (2A) The regulations must:

21 (a) declare that specified scope 1 emissions of greenhouse gas  
22 are covered by the emissions trading scheme; and

23 (b) declare that the remaining scope 1 emissions of greenhouse  
24 gas are not covered by the emissions trading scheme.

25 Note: For specification by class, see subsection 13(3) of the *Legislative*  
26 *Instruments Act 2003*.

27 **175 Subsection 10(3)**

28 Omit “emissions”, substitute “scope 1 emissions, scope 2 emissions,”.

29 **176 Subsection 10(3)**

---

1           After “this Act”, insert “and the *Safe Climate (Emissions Trading*  
2           *Scheme) Act 2009*”.

3           **177 Paragraph 10(3)(a)**

4           Repeal the paragraph, substitute:  
5                     (a) in the case of scope 1 emissions—different methods or  
6                     criteria for emissions from different sources; and

7           **178 Subsection 11(1)**

8           Omit “A controlling corporation or another member of the corporation’s  
9           group”, substitute “For the purposes of this Act and the *Safe Climate*  
10           *(Emissions Trading Scheme) Act 2009*, a person”.

11          Note:     The heading to section 11 is altered by adding at the end “—**basic rule**”.

12           **179 Paragraph 11(1)(a)**

13           Omit “it”, substitute “the person”.

14           **180 Paragraph 11(1)(b)**

15           Omit “corporation or member”, substitute “person”.

16           **181 At the end of paragraph 11(1)(b)**

17           Add “or 55A”.

18           **182 Subsection 11(2)**

19           After “apply”, insert “in relation to a facility”.

20           **183 At the end of subsection 11(2)**

21           Add “in relation to the facility”.

22           **184 Subsection 11(3)**

23           After “this Act”, insert “and the *Safe Climate (Emissions Trading*  
24           *Scheme) Act 2009*”.

25           **185 Subsection 11(3)**

26           Omit “such corporation or member”, substitute “person”.

27           **186 Subsection 11(4)**

28           Repeal the subsection, substitute:

---

1 (4) This section has effect subject to sections 11A, 11B and 11C.

2 **187 At the end of Part 1**

3 Add:

4 **11A Operational control—person with greatest authority**

5 *Scope*

6 (1) This section applies if the following conditions are satisfied in  
7 relation to a period that is included in, or consists of, an eligible  
8 financial year:

- 9 (a) 2 or more persons could satisfy paragraph 11(1)(a) in relation  
10 to a facility throughout the period;
- 11 (b) a particular person has the greatest authority to introduce and  
12 implement the policies mentioned in  
13 subparagraphs 11(1)(a)(i) and (iii) in relation to the facility  
14 throughout the period;
- 15 (c) no declaration under section 55 or 55A applies in relation to  
16 the facility at any time during the period.

17 *Operational control*

18 (2) The person mentioned in paragraph (1)(b) is taken, for the  
19 purposes of this Act and the *Safe Climate (Emissions Trading*  
20 *Scheme) Act 2009*, to have **operational control** over the facility  
21 throughout the period.

22 **11B Operational control—nominated person**

23 *Scope*

24 (1) This section applies if the following conditions are satisfied in  
25 relation to a period that is included in, or consists of, an eligible  
26 financial year:

- 27 (a) 2 or more persons could satisfy paragraph 11(1)(a) in relation  
28 to a facility throughout the period;
- 29 (b) no particular person has the greatest authority to introduce  
30 and implement the policies mentioned in  
31 subparagraphs 11(1)(a)(i) and (iii) in relation to the facility  
32 throughout the period;

1 (c) no declaration under section 55 or 55A applies in relation to  
2 the facility at any time during the period.

3 *Nomination*

4 (2) Those persons must, before the end of 31 August next following  
5 the eligible financial year, jointly nominate one of them to be the  
6 nominated person in relation to the facility for the period.

7 Civil penalty: 1,000 penalty units.

8 (3) A nomination must:

9 (a) be in writing; and

10 (b) be in a form approved by the Authority; and

11 (c) be accompanied by such information as is specified in the  
12 regulations.

13 (4) If:

14 (a) any of those persons is a foreign person; and

15 (b) any of those persons is not a foreign person;

16 a foreign person cannot be nominated.

17 *Operational control*

18 (5) If a nomination is made, the nominated person is taken, for the  
19 purposes of this Act and the *Safe Climate (Emissions Trading*  
20 *Scheme) Act 2009*, to have **operational control** over the facility  
21 throughout the period.

22 (6) If no nomination is made:

23 (a) each of the persons mentioned in paragraph (1)(a) is taken,  
24 for the purposes of this Act and the *Safe Climate (Emissions*  
25 *Trading Scheme) Act 2009*, to have **operational control** over  
26 the facility throughout the period; and

27 (b) if there is a provisional emissions number of:

28 (i) such a person; or

29 (ii) if such a person is a member of a controlling  
30 corporation's group—the controlling corporation;

31 for the eligible financial year in relation to greenhouse gases  
32 emitted from the operation of the facility during the period—  
33 for the purposes of this Act and the *Safe Climate (Emissions*  
34 *Trading Scheme) Act 2009*, that provisional emissions

---

1 number is taken to be the number worked out using the  
2 formula set out in subsection (7).

3 (7) The formula is:

4 
$$\frac{\text{Unadjusted provisional emissions number}}{\text{Total number of persons mentioned in paragraph (1)(a)}}$$

5 where:

6 *unadjusted provisional emissions number* means the number that,  
7 apart from paragraph (6)(b), would be the provisional emissions  
8 number of the person or the controlling corporation, as the case  
9 may be, for the eligible financial year in relation to greenhouse  
10 gases emitted from the operation of the facility during the period.

11 *Exception*

12 (8) A person is not required to comply with subsection (2) if the  
13 question of who has operational control of the facility is not  
14 relevant (whether directly or indirectly) to a requirement under:

- 15 (a) this Act; or  
16 (b) the *Safe Climate (Emissions Trading Scheme) Act 2009*.

17 **11C Operational control—trust with multiple trustees**

18 *Scope*

19 (1) This section applies if the following conditions are satisfied in  
20 relation to a period that is included in, or consists of, an eligible  
21 financial year:

- 22 (a) because of section 11, 11A or 11B, a trust has operational  
23 control over a facility throughout the period;  
24 (b) throughout the period, there are 2 or more trustees of the  
25 trust;  
26 (c) no declaration under section 55 or 55A applies in relation to  
27 the facility at any time during the period.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32

*Nomination*

(2) Those trustees must, before the end of 31 August next following the eligible financial year, jointly nominate one of them to be the nominated trustee in relation to the facility for the period.

Civil penalty: 1,000 penalty units.

(3) A nomination must:

- (a) be in writing; and
- (b) be in a form approved by the Authority; and
- (c) be accompanied by such information as is specified in the regulations.

(4) If:

- (a) any of those trustees is a foreign person; and
  - (b) any of those trustees is not a foreign person;
- a foreign person cannot be nominated.

*Operational control*

(5) If a nomination is made, the nominated trustee is taken, for the purposes of this Act and the *Safe Climate (Emissions Trading Scheme) Act 2009*, to have **operational control** over the facility throughout the period.

(6) If no nomination is made:

- (a) each of those trustees is taken, for the purposes of this Act and the *Safe Climate (Emissions Trading Scheme) Act 2009*, to have **operational control** over the facility throughout the period; and
- (b) if there is a provisional emissions number of such a trustee for the eligible financial year in relation to greenhouse gases emitted from the operation of the facility during the period—for the purposes of this Act and the *Safe Climate (Emissions Trading Scheme) Act 2009*, that provisional emissions number is taken to be the number worked out using the formula set out in subsection (7).

(7) The formula is:

1 
$$\frac{\text{Unadjusted provisional emissions number}}{\text{Total number of trustees mentioned in paragraph (1)(a)}}$$

2 where:

3 *unadjusted provisional emissions number* means the number that,  
4 apart from paragraph (6)(b), would be the provisional emissions  
5 number of the trustee for the eligible financial year in relation to  
6 greenhouse gases emitted from the operation of the facility during  
7 the period.

8 *Exception*

- 9 (8) A trustee is not required to comply with subsection (2) if the  
10 question of who has operational control of the facility is not  
11 relevant (whether directly or indirectly) to a requirement under:  
12 (a) this Act; or  
13 (b) the *Safe Climate (Emissions Trading Scheme) Act 2009*.

14 **188 Before section 12**

15 Insert:

16 **Subdivision A—Application by a controlling corporation**

17 **189 At the end of Division 1 of Part 2**

18 Add:

19 **Subdivision B—Application by a liable entity**

20 **15A Application by a liable entity**

- 21 (1) If a person is or was a liable entity for an eligible financial year  
22 (the *current eligible financial year*), the person must apply, in  
23 accordance with this section, to be registered under this Act.

24 Civil penalty:

- 25 (a) for an individual—2,000 penalty units; or  
26 (b) otherwise—10,000 penalty units.

27 Note 1: Under Division 137 of the *Criminal Code*, it may be an offence to  
28 provide false or misleading information or documents to the Authority  
29 in purported compliance with this Act.

1 Note 2: Under section 30, a person may be liable for an additional civil  
2 penalty for each day that the person fails to apply in accordance with  
3 subsection (1) of this section.

4 (2) However, a person is not required to make an application under  
5 subsection (1) if the person is registered under this Act at the end  
6 of the current eligible financial year.

7 (3) An application under subsection (1) must be made by 31 August in  
8 the eligible financial year next following the current eligible  
9 financial year.

10 (4) An application under subsection (1) must:  
11 (a) be made to the Authority; and  
12 (b) be in a form approved by the Authority; and  
13 (c) set out the information specified by the regulations for the  
14 purposes of this paragraph.

15 **Subdivision C—Application by an OTN holder who is not a**  
16 **liable entity**

17 **15B Application by an OTN holder who is not a liable entity**

18 (1) If:  
19 (a) during an eligible financial year (the *current eligible*  
20 *financial year*), a person supplied an amount of eligible  
21 upstream fuel or synthetic greenhouse gas to another person  
22 (the *recipient*); and  
23 (b) the recipient quoted the recipient's OTN in relation to the  
24 supply; and  
25 (c) the recipient is not a liable entity for the current eligible  
26 financial year;  
27 the recipient must apply, in accordance with this section, to be  
28 registered under this Act.

29 Civil penalty:  
30 (a) for an individual—2,000 penalty units; or  
31 (b) otherwise—10,000 penalty units.

32 Note 1: Under Division 137 of the *Criminal Code*, it may be an offence to  
33 provide false or misleading information or documents to the Authority  
34 in purported compliance with this Act.

1 Note 2: Under section 30, a person may be liable for an additional civil  
2 penalty for each day that the person fails to apply in accordance with  
3 subsection (1) of this section.

4 (2) However, a person is not required to make an application under  
5 subsection (1) if the person is registered under this Act at the end  
6 of the current eligible financial year.

7 (3) An application under subsection (1) must be made by 31 August in  
8 the eligible financial year next following the current eligible  
9 financial year.

10 (4) An application under subsection (1) must:  
11 (a) be made to the Authority; and  
12 (b) be in a form approved by the Authority; and  
13 (c) set out the information specified by the regulations for the  
14 purposes of this paragraph.

15 **Subdivision D—Application by a fuel supplier who is not a**  
16 **liable entity**

17 **15C Application by a fuel supplier who is not a liable entity**

- 18 (1) If:  
19 (a) during an eligible financial year (the *current eligible*  
20 *financial year*), a person (the *supplier*) supplied an amount  
21 of eligible upstream fuel to another person (the *recipient*);  
22 and  
23 (b) the recipient quoted the recipient's OTN in relation to the  
24 supply; and  
25 (c) the supplier is not a liable entity for the current eligible  
26 financial year;

27 the supplier must apply, in accordance with this section, to be  
28 registered under this Act.

29 **Civil penalty:**

- 30 (a) for an individual—2,000 penalty units; or  
31 (b) otherwise—10,000 penalty units.

32 Note 1: Under Division 137 of the *Criminal Code*, it may be an offence to  
33 provide false or misleading information or documents to the Authority  
34 in purported compliance with this Act.

**Schedule 1** General amendments  
**Part 2** Amendments commencing on 1 July 2011

---

1 Note 2: Under section 30, a person may be liable for an additional civil  
2 penalty for each day that the person fails to apply in accordance with  
3 subsection (1) of this section.

4 (2) However, a person is not required to make an application under  
5 subsection (1) if:

- 6 (a) the person is registered under this Act at the end of the  
7 current eligible financial year; or  
8 (b) the person is required to make an application under  
9 subsection 15B(1).

10 (3) An application under subsection (1) must be made by 31 August in  
11 the eligible financial year next following the current eligible  
12 financial year.

13 (4) An application under subsection (1) must:

- 14 (a) be made to the Authority; and  
15 (b) be in a form approved by the Authority; and  
16 (c) set out the information specified by the regulations for the  
17 purposes of this paragraph.

18 **190 Subsection 16(3)**

19 Repeal the subsection, substitute:

20 (3) The Authority must cause the contents of the Register to be made  
21 available on the Authority's website.

22 (3A) Subsection (3) does not apply to information ascertained in  
23 accordance with the regulations.

24 **191 Paragraph 16(4)(a)**

25 Omit "corporation", substitute "person".

26 **192 Paragraph 16(4)(a)**

27 Omit "Division 3", substitute "this Act".

28 **193 Subparagraphs 16(4)(b)(iii) and (v)**

29 Omit "corporation", substitute "person".

30 **194 Division 3 of Part 2 (heading)**

31 Repeal the heading, substitute:

---

1 **Division 3—Registration of controlling corporations**

2 **195 Section 18**

3 Repeal the section.

4 **196 At the end of Part 2**

5 Add:

6 **Division 4—Registration of other persons**

7 **18A Registration of other persons**

- 8 (1) The Authority must register a person under this Act if the person  
9 has applied for registration under section 15A, 15B or 15C.
- 10 (2) The Authority must notify the person, in writing, of the Authority's  
11 decision on the application.
- 12 (3) The person is registered under this Act when the Authority has  
13 entered the name of the person on the Register.

14 **Division 5—Deregistration**

15 **18B Deregistration**

- 16 (1) A registered person may apply to the Authority to be deregistered.
- 17 (2) An application must:  
18 (a) be in writing; and  
19 (b) be in a form approved by the Authority; and  
20 (c) set out such information as is specified in the regulations.
- 21 (3) The Authority must remove the person's name from the Register if  
22 the Authority is satisfied that:  
23 (a) in a case where the person is the controlling corporation of a  
24 group—the group is not likely to meet any of the thresholds  
25 under section 13 for:  
26 (i) the financial year in which the application is made; and  
27 (ii) the next 2 financial years; and  
28 (b) the person:

- 1 (i) is not a liable entity for the financial year in which the  
2 application is made; and  
3 (ii) is not likely to be a liable entity for any of the next 2  
4 financial years; and  
5 (c) the person does not hold an OTN; and  
6 (d) the person does not supply amounts of:  
7 (i) eligible upstream fuel; or  
8 (ii) synthetic greenhouse gas;  
9 to other persons who quote their OTNs in relation to the  
10 supply.
- 11 (4) The Authority must notify the person, in writing, of the Authority's  
12 decision on the application.
- 13 (5) The person ceases to be registered under this Act when the  
14 Authority has removed the person's name from the Register.

15 **197 Part 3 (heading)**

16 Repeal the heading, substitute:

17 **Part 3—Reporting obligations of registered**  
18 **corporations etc.**

19 **198 Subsection 19(1)**

20 Omit “registered corporation”, substitute “corporation registered under  
21 Division 3”.

22 **199 At the end of subsection 19(1)**

23 Add:

- 24 Note 4: Reports under this section and section 22A may be set out in the same  
25 document—see subsection 22A(4).
- 26 Note 5: Reports under this section and section 22C may be set out in the same  
27 document—see subsection 22C(4).
- 28 Note 6: Reports under this section and section 22D may be set out in the same  
29 document—see subsection 22D(4).

30 **200 Subsections 19(4) and (5)**

31 Repeal the subsections, substitute:

---

- 1 (4) If a person other than the corporation is the holder of a liability  
2 transfer certificate in relation to a facility throughout the whole or a  
3 part of an eligible financial year, a report under subsection (1) need  
4 not relate to the:  
5 (a) greenhouse gas emissions; and  
6 (b) energy production; and  
7 (c) energy consumption;  
8 from the operation of the facility during the whole, or the part, as  
9 the case may be, of the eligible financial year.

10 **201 Paragraph 19(6)(c)**

11 Omit “include any”, substitute “set out the”.

12 **202 Paragraphs 22(1)(a) and (b)**

13 After “this Act”, insert “(other than Part 3A, 3B, 3C or 3D)”.

14 **203 Paragraphs 22(2)(a) and (b)**

15 After “this Act”, insert “(other than Part 3A, 3B, 3C or 3D)”.

16 **204 Subsection 22(3)**

17 Omit “7 years”, substitute “5 years”.

18 **205 After Part 3**

19 Insert:

20 **Part 3A—Reporting obligations of liable entities**  
21 **etc.**  
22

23 **22A Report to be given to Authority**

- 24 (1) If a person was a liable entity for an eligible financial year, the  
25 person must, in accordance with this section, provide a report to  
26 the Authority relating to:  
27 (a) the calculation of the person’s provisional emissions numbers  
28 for the eligible financial year; and  
29 (b) if a provisional emissions number of the person for the  
30 eligible financial year is attributable to scope 1 emissions of  
31 greenhouse gas—those emissions; and

- 1 (c) if a provisional emissions number of the person for the  
2 eligible financial year is attributable to the import,  
3 manufacture or supply of synthetic greenhouse gas—the  
4 import, manufacture or supply concerned; and  
5 (d) if a provisional emissions number of the person for the  
6 eligible financial year is attributable to potential greenhouse  
7 gas emissions embodied in an amount of eligible upstream  
8 fuel—those potential greenhouse gas emissions; and  
9 (e) the calculation of the person’s emissions number for the  
10 eligible financial year.

11 **Civil penalty:**

- 12 (a) for an individual—2,000 penalty units; or  
13 (b) otherwise—10,000 penalty units.

14 Note 1: Under Division 137 of the *Criminal Code*, it may be an offence to  
15 provide false or misleading information or documents to the Authority  
16 in purported compliance with this Act.

17 Note 2: Under section 30, a person may be liable for an additional civil  
18 penalty for each day after the end of the period mentioned in  
19 paragraph (2)(c) for which the person fails to provide a report in  
20 accordance with this section.

21 **(2) A report under this section must:**

- 22 (a) be given in a manner and form approved by the Authority;  
23 and  
24 (b) set out the information specified by the regulations for the  
25 purposes of this paragraph; and  
26 (c) be given to the Authority before the end of 4 months after the  
27 end of the eligible financial year.

28 **(3) Regulations made for the purposes of paragraph (2)(b) may specify**  
29 **different requirements for different circumstances.**

30 **(4) Reports under this section and section 19 may be set out in the**  
31 **same document.**

32 Note: Reports under this section and section 22E may be set out in the same  
33 document—see subsection 22E(7).

34 **22B Records to be kept**

- 35 **(1) A person who is or was a liable entity for an eligible financial year**  
36 **must keep records of the person’s activities that:**
-

- 1 (a) allow the person to report accurately under section 22A; and  
2 (b) enable the Authority to ascertain whether the person has  
3 complied with the person's obligations under section 22A;  
4 and  
5 (c) comply with the requirements of subsection (2) and the  
6 regulations made for the purposes of subsection (3).

7 Civil penalty:

- 8 (a) for an individual—2,000 penalty units; or  
9 (b) otherwise—10,000 penalty units.

10 (2) The person must retain the records for 5 years from the end of the  
11 financial year in which the activities take place.

12 (3) The regulations may specify requirements relating to:

- 13 (a) the kinds of records; and  
14 (b) the form of records;

15 that must be kept under subsection (1).

16 **Part 3B—Reporting obligations of OTN holders**  
17 **who are not liable entities**  
18

19 **22C Reporting obligations of OTN holders who are not liable**  
20 **entities**

21 (1) If:

- 22 (a) on one or more occasions during an eligible financial year:  
23 (i) a person supplied an amount of eligible upstream fuel or  
24 synthetic greenhouse gas to another person (the  
25 **recipient**); and  
26 (ii) the recipient quoted the recipient's OTN in relation to  
27 the supply; and

28 (b) the recipient is not a liable entity for the eligible financial  
29 year;

30 the recipient must, in accordance with this section, provide a report  
31 to the Authority relating to the supply or supplies.

32 Civil penalty:

- 33 (a) for an individual—2,000 penalty units; or

- 1 (b) otherwise—10,000 penalty units.
- 2 Note 1: Under Division 137 of the *Criminal Code*, it may be an offence to  
3 provide false or misleading information or documents to the Authority  
4 in purported compliance with this Act.
- 5 Note 2: Under section 30, a person may be liable for an additional civil  
6 penalty for each day after the end of the period mentioned in  
7 paragraph (2)(c) for which the person fails to provide a report in  
8 accordance with this section.
- 9 (2) A report under this section must:
- 10 (a) be given in a manner and form approved by the Authority;  
11 and
- 12 (b) set out the information specified by the regulations for the  
13 purposes of this paragraph; and
- 14 (c) be given to the Authority before the end of 4 months after the  
15 end of the eligible financial year.
- 16 (3) Regulations made for the purposes of paragraph (2)(b) may specify  
17 different requirements for different circumstances.
- 18 (4) Reports under this section and section 19 may be set out in the  
19 same document.

20 **22CA Records to be kept**

- 21 (1) A person who is or was required to provide a report under  
22 section 22C for an eligible financial year must keep records of the  
23 person's activities that:
- 24 (a) allow the person to report accurately under section 22C; and  
25 (b) enable the Authority to ascertain whether the person has  
26 complied with the person's obligations under section 22C;  
27 and
- 28 (c) comply with the requirements of subsection (2) and the  
29 regulations made for the purposes of subsection (3).
- 30 Civil penalty:
- 31 (a) for an individual—2,000 penalty units; or  
32 (b) otherwise—10,000 penalty units.
- 33 (2) The person must retain the records for 5 years from the end of the  
34 financial year in which the activities take place.
- 35 (3) The regulations may specify requirements relating to:
-

- 1 (a) the kinds of records; and  
2 (b) the form of records;  
3 that must be kept under subsection (1).

4 **Part 3C—Reporting obligations of fuel suppliers**  
5 **who are not liable entities**  
6

7 **22D Reporting obligations of fuel suppliers who are not liable**  
8 **entities**

- 9 (1) If:  
10 (a) on one or more occasions during an eligible financial year:  
11 (i) a person (the *supplier*) supplied an amount of eligible  
12 upstream fuel to another person (the *recipient*); and  
13 (ii) the recipient quoted the recipient's OTN in relation to  
14 the supply; and  
15 (b) the supplier is not a liable entity for the eligible financial  
16 year;  
17 the supplier must, in accordance with this section, provide a report  
18 to the Authority relating to the supply or supplies.

19 Civil penalty:

- 20 (a) for an individual—2,000 penalty units; or  
21 (b) otherwise—10,000 penalty units.

22 Note 1: Under Division 137 of the *Criminal Code*, it may be an offence to  
23 provide false or misleading information or documents to the Authority  
24 in purported compliance with this Act.

25 Note 2: Under section 30, a person may be liable for an additional civil  
26 penalty for each day after the end of the period mentioned in  
27 paragraph (2)(c) for which the person fails to provide a report in  
28 accordance with this section.

- 29 (2) A report under this section must:  
30 (a) be given in a manner and form approved by the Authority;  
31 and  
32 (b) set out the information specified by the regulations for the  
33 purposes of this paragraph; and  
34 (c) be given to the Authority before the end of 4 months after the  
35 end of the eligible financial year.

1 (3) Regulations made for the purposes of paragraph (2)(b) may specify  
2 different requirements for different circumstances.

3 (4) Reports under this section and section 19 may be set out in the  
4 same document.

5 **22DA Records to be kept**

6 (1) A person who is or was required to provide a report under  
7 section 22D for an eligible financial year must keep records of the  
8 person's activities that:

9 (a) allow the person to report accurately under section 22D; and

10 (b) enable the Authority to ascertain whether the person has  
11 complied with the person's obligations under section 22D;  
12 and

13 (c) comply with the requirements of subsection (2) and the  
14 regulations made for the purposes of subsection (3).

15 Civil penalty:

16 (a) for an individual—2,000 penalty units; or

17 (b) otherwise—10,000 penalty units.

18 (2) The person must retain the records for 5 years from the end of the  
19 financial year in which the activities take place.

20 (3) The regulations may specify requirements relating to:

21 (a) the kinds of records; and

22 (b) the form of records;

23 that must be kept under subsection (1).

24 **Part 3D—Reporting obligations of holders of**  
25 **liability transfer certificates**  
26

27 **22E Report to be given to Authority**

28 (1) If a person was the holder of a liability transfer certificate in  
29 relation to a facility during the whole or a part of an eligible  
30 financial year, the person must, in accordance with this section,  
31 provide a report to the Authority relating to the:

32 (a) greenhouse gas emissions; and

---

- 1 (b) energy production; and  
2 (c) energy consumption;  
3 from the operation of the facility during the whole, or the part, as  
4 the case may be, of that eligible financial year.

5 Civil penalty:

- 6 (a) for an individual—2,000 penalty units; or  
7 (b) otherwise—10,000 penalty units.

8 Note 1: Under Division 137 of the *Criminal Code*, it may be an offence to  
9 provide false or misleading information or documents to the Authority  
10 in purported compliance with this Act.

11 Note 2: Under section 30, a person may be liable for an additional civil  
12 penalty for each day after the end of the period mentioned in  
13 paragraph (2)(d) for which the person fails to provide a report in  
14 accordance with this section.

15 (2) A report under this section must:

- 16 (a) be given in a manner and form approved by the Authority;  
17 and  
18 (b) be based on:  
19 (i) methods determined by the Minister under  
20 subsection 10(3); or  
21 (ii) methods which meet criteria determined by the Minister  
22 under that subsection;  
23 where the use of those methods satisfies any conditions  
24 specified in the determination under that subsection; and  
25 (c) set out the information specified by the regulations for the  
26 purposes of this paragraph; and  
27 (d) be given to the Authority before the end of 4 months after the  
28 end of the eligible financial year.

29 (3) Regulations made for the purposes of paragraph (2)(c) may specify  
30 different requirements for different circumstances.

31 (4) In particular, and without limiting subsection (3), the regulations  
32 may specify different requirements for persons who:

- 33 (a) do not meet any threshold; or  
34 (b) do not meet specified thresholds;  
35 for an eligible financial year to which a report relates.

- 1 (5) Regulations made for the purposes of paragraph (2)(c) may also  
2 specify information that a State or Territory has requested the  
3 Authority to collect.
- 4 (6) The regulations may provide that a person is not required to  
5 provide a report under subsection (1) for an eligible financial year  
6 in relation to a facility if the facility does not meet a specified  
7 threshold for the eligible financial year.
- 8 (7) Reports under this section and section 22A may be set out in the  
9 same document.

10 **22F Records to be kept**

- 11 (1) A person who is or was required to provide a report under  
12 section 22E for an eligible financial year must keep records of the  
13 person's activities that:  
14 (a) allow the person to report accurately under section 22E; and  
15 (b) enable the Authority to ascertain whether the person has  
16 complied with the person's obligations under section 22E;  
17 and  
18 (c) comply with the requirements of subsection (2) and the  
19 regulations made for the purposes of subsection (3).
- 20 Civil penalty:  
21 (a) for an individual—2,000 penalty units; or  
22 (b) otherwise—10,000 penalty units.
- 23 (2) The person must retain the records for 5 years from the end of the  
24 financial year in which the activities take place.
- 25 (3) The regulations may specify requirements relating to:  
26 (a) the kinds of records; and  
27 (b) the form of records;  
28 that must be kept under subsection (1).

29 **206 Subsection 23(1) (penalty)**

30 Repeal the penalty, substitute:

31 Penalty: Imprisonment for 2 years or 120 penalty units, or both.

32 **207 Paragraphs 24(1)(a) and (b)**

---

1 Omit “(within the meaning of the regulations)”.

2 **208 Subsection 24(1)**

3 After “reported”, insert “under Part 3 or 3D”.

4 **209 Subsection 24(1A)**

5 Omit “This subsection is subject to subsection 25(3).”.

6 **210 After subsection 24(1A)**

7 Insert:

8 (1AAA) In addition to publishing the totals for the corporation’s group, the  
9 Authority must also publish on the website, in the case of a facility  
10 under the operational control of a member of the group and the  
11 individual operation of which meets a threshold mentioned in  
12 paragraph 13(1)(d) for a financial year:

- 13 (a) the greenhouse gas emissions that are scope 1 emissions; and
- 14 (b) the greenhouse gas emissions that are scope 2 emissions; and
- 15 (c) the energy consumption;

16 reported in relation to the facility under Part 3 or 3D.

17 (1AAB) In addition to publishing the matters mentioned in  
18 subsection (1AAA), the Authority may also publish on the website:

- 19 (a) the methods mentioned in paragraph 19(6)(b) or 22E(2)(b)  
20 that were used to measure the values for the facility  
21 concerned; and
- 22 (b) the rating given to each of those methods under the  
23 determination under subsection 10(3).

24 **211 After subsection 24(1A)**

25 Insert:

26 (1AA) If a person gives the Authority a report under section 22A in  
27 relation to an eligible financial year, the Authority must publish on  
28 its website, by 28 February next following the eligible financial  
29 year:

- 30 (a) the total of the numbers specified in the report as the person’s  
31 provisional emissions numbers for the eligible financial year;  
32 and

- 1 (b) if any of those provisional emissions numbers are attributable  
2 to scope 1 emissions of greenhouse gas—the total of those  
3 provisional emissions numbers; and  
4 (c) if any of those provisional emissions numbers are attributable  
5 to the import, manufacture or supply of synthetic greenhouse  
6 gas—the total of those provisional emissions numbers; and  
7 (d) if any of those provisional emissions numbers are attributable  
8 to potential greenhouse gas emissions embodied in an  
9 amount of eligible upstream fuel—the total of those  
10 provisional emissions numbers.

11 **212 Subsection 24(1B)**

12 Repeal the subsection, substitute:

13 *Limitations*

- 14 (1B) The Authority must not publish information mentioned in:  
15 (a) subsection (1)—unless the corporation’s group meets a  
16 threshold mentioned in paragraph 13(1)(a) for the financial  
17 year covered by the report; or  
18 (b) subsection (1AAA)—unless the facility meets a threshold  
19 mentioned in paragraph 13(1)(d) for the financial year  
20 covered by the report.

21 **213 Subsection 24(1C)**

22 Repeal the subsection.

23 **214 Subsection 24(2)**

24 Omit “This subsection is subject to subsection 25(3).”.

25 **215 Subsection 24(3)**

26 Omit “This subsection is subject to subsection 25(3).”.

27 **216 After paragraph 24(6)(b)**

28 Insert:

- 29 (ba) non-corporate entity; or

30 **217 Section 25**

31 Repeal the section.

---

1 **218 Subsection 30(2) (civil penalty)**

2 Repeal the civil penalty, substitute:

3 Civil penalty: 100 penalty units per day.

4 **219 After subsection 30(2)**

5 Insert:

6 (2A) If, under section 15A, 15B, 15C, 22A, 22C, 22D, 22E, 74AA or  
7 74B, an act or thing is required to be done within a particular  
8 period, or before a particular time, and a person fails to comply  
9 with that requirement, the person is liable for a civil penalty for  
10 each day that the person fails to comply.

11 Civil penalty:

- 12 (a) for an individual—20 penalty units per day; or  
13 (b) otherwise—100 penalty units per day.

14 **220 Subsection 31(4)**

15 Omit “must have regard”, substitute “may have regard”.

16 **221 At the end of subsection 31(4)**

17 Add:

18 ; and (e) the extent to which the person has co-operated with the  
19 authorities; and

20 (f) if the person is a body corporate:

- 21 (i) the level of the employees, officers or agents of the  
22 body corporate involved in the contravention; and  
23 (ii) whether the body corporate exercised due diligence to  
24 avoid the contravention; and  
25 (iii) whether the body corporate had a corporate culture  
26 conducive to compliance.

27 **222 Division 4 of Part 5 (heading)**

28 Repeal the heading, substitute:

29 **Division 4—Liability of executive officers of bodies**  
30 **corporate**

31 **223 Paragraph 47(1)(a)**

---

1 Omit “corporation”, substitute “body corporate”.

2 Note: The heading to section 47 is altered by omitting “**chief executive officers of**  
3 **corporations**” and substituting “**executive officers of bodies corporate**”.

4 **224 Paragraph 47(1)(b)**

5 Omit “chief”.

6 **225 Paragraphs 47(1)(b) and (c)**

7 Omit “corporation”, substitute “body corporate”.

8 **226 After subsection 47(1)**

9 Insert:

10 (1A) For the purposes of subsection (1), the officer is *reckless* as to  
11 whether the contravention would occur if:

12 (a) the officer is aware of a substantial risk that the contravention  
13 would occur; and

14 (b) having regard to the circumstances known to the officer, it is  
15 unjustifiable to take the risk.

16 (1B) For the purposes of subsection (1), the officer is *negligent* as to  
17 whether the contravention would occur if the officer’s conduct  
18 involves:

19 (a) such a great falling short of the standard of care that a  
20 reasonable person would exercise in the circumstances; and

21 (b) such a high risk that the contravention would occur; and  
22 that the conduct merits the imposition of a pecuniary penalty.

23 **227 Subsection 47(3)**

24 Omit “corporation”, substitute “body corporate”.

25 **228 Subsection 48(1)**

26 Omit “a chief”, substitute “an”.

27 Note: The heading to section 48 is altered by omitting “**a chief**” and substituting “**an**”.

28 **229 Subsection 48(1)**

29 Omit “corporation” (first occurring), substitute “body corporate”.

30 **230 Subparagraph 48(1)(a)(i)**

---

1 Omit “corporation”, substitute “body corporate”.

2 **231 Subparagraph 48(1)(a)(i)**

3 Omit “corporation’s”, substitute “body corporate’s”.

4 **232 Subparagraph 48(1)(a)(ii)**

5 Omit “corporation”, substitute “body corporate”.

6 **233 Subparagraph 48(1)(a)(iii)**

7 Omit “corporation’s”, substitute “body corporate’s”.

8 **234 Paragraph 48(1)(b)**

9 Omit “that the corporation was contravening this Act or the  
10 regulations”, substitute “of the contravention”.

11 **235 Subsection 54(5)**

12 Omit “corporation, joint venture or partnership”, substitute “person”.

13 Note: The heading to section 54 is altered by adding at the end “—group”.

14 **236 After section 54**

15 Insert:

16 **54A Authority may declare facility—non-group entity**

17 (1) The Authority may declare that an activity or series of activities  
18 (including ancillary activities) are a facility:

- 19 (a) on application by a non-group entity; or  
20 (b) on the Authority’s own initiative.

21 (2) An application must:

- 22 (a) identify the facility for which a declaration is sought; and  
23 (b) include any other information required by the regulations;  
24 and  
25 (c) be given in a manner and form approved by the Authority.

26 (3) In considering making a declaration that an activity or series of  
27 activities are a facility, the Authority must have regard to:

- 28 (a) the matters dealt with in regulations made for the purposes of  
29 paragraph 9(1)(a); and

- 1 (b) the need for each facility to be distinct from, and not overlap  
2 with, activities that constitute other facilities.
- 3 (4) The Authority must notify, in writing, an applicant under  
4 paragraph (1)(a) of a decision under subsection (1) to declare a  
5 facility or to refuse the application.
- 6 (5) If the Authority makes a declaration under paragraph (1)(b), the  
7 Authority must notify, in writing, the person that has, or that the  
8 Authority reasonably believes has, operational control of the  
9 facility to which the declaration relates.

10 **237 After subsection 55(3)**

11 Insert:

- 12 (3A) The Authority must not declare that a controlling corporation or  
13 another member of the corporation's group has operational control  
14 of a facility unless the Authority is satisfied that the corporation or  
15 member has substantial authority to introduce and implement either  
16 or both of the following for the facility:  
17 (a) operating policies;  
18 (b) environmental policies.
- 19 (3B) The Authority must not declare that a member of a controlling  
20 corporation's group (other than the controlling corporation) has  
21 operational control of a facility on application made by the member  
22 unless the controlling corporation has given written consent to the  
23 making of the declaration.

24 **238 At the end of Division 2 of Part 6**

25 Add:

26 **55A Authority may declare non-group entity has operational control**

- 27 (1) The Authority may declare that a non-group entity has operational  
28 control of a facility:  
29 (a) on application by the non-group entity; or  
30 (b) on the Authority's own initiative.
- 31 (2) An application must:  
32 (a) identify the facility for which a declaration of operational  
33 control is sought; and

- 1 (b) include any other information required by the regulations;  
2 and  
3 (c) be given in a manner and form approved by the Authority.
- 4 (3) In considering making a declaration that a non-group entity has  
5 operational control of a facility, the Authority must have regard to  
6 the matters dealt with in paragraph 11(1)(a) and regulations made  
7 for the purposes of that paragraph.
- 8 (4) The Authority must not declare that a non-group entity has  
9 operational control of a facility unless the Authority is satisfied that  
10 the non-group entity has substantial authority to introduce and  
11 implement either or both of the following for the facility:  
12 (a) operating policies;  
13 (b) environmental policies.
- 14 (5) The Authority must notify, in writing, an applicant under  
15 paragraph (1)(a) of a decision under subsection (1) to declare the  
16 non-group entity to have operational control of the facility or to  
17 refuse the application.
- 18 (6) If the Authority makes a declaration under paragraph (1)(b), the  
19 Authority must notify, in writing, the non-group entity which the  
20 Authority has declared to have operational control of the facility to  
21 which the declaration relates.

22 **239 After paragraph 56(a)**

23 Insert:

- 24 (aa) not register a person under section 15A;  
25 (ab) not register a person under section 15B;  
26 (ac) not register a person under section 15C;

27 **240 Paragraph 56(b)**

28 Omit “corporation under section 18”, substitute “person under  
29 section 18B”.

30 **241 After paragraph 56(g)**

31 Insert:

- 32 (ga) refuse an application under section 54A;  
33 (gb) declare a facility under paragraph 54A(1)(b);

1 **242 At the end of section 56**

2 Add:

- 3 ; (k) refuse an application under section 55A;  
4 (l) declare that a non-group entity has operational control of a  
5 facility under paragraph 55A(1)(b).

6 **243 Subsection 61(3) (penalty)**

7 Repeal the penalty, substitute:

8 Penalty: Imprisonment for 6 months or 30 penalty units, or both.

9 **244 Subsection 69(2) (penalty)**

10 Repeal the penalty, substitute:

11 Penalty: 30 penalty units.

12 **245 Before section 75**

13 Insert:

14 **74AA Audit of persons providing reports under section 22A**

15 (1) This section applies if:

- 16 (a) a person was a liable entity for an eligible financial year; and  
17 (b) the person is required to provide a report under section 22A  
18 in relation to the eligible financial year; and  
19 (c) the person's gross emissions number for the eligible financial  
20 year exceeds the number specified in the regulations in  
21 relation to the eligible financial year.

22 Note: For *gross emissions number*, see subsection (5).

23 (2) The person must:

- 24 (a) appoint as an audit team leader a registered greenhouse and  
25 energy auditor of the person's choice; and  
26 (b) arrange for the audit team leader to carry out an audit of:  
27 (i) the section 22A report; and  
28 (ii) such other matters (if any) relating to the section 22A  
29 report as are specified in the regulations; and  
30 (iii) the person's compliance with section 22B in relation to  
31 the eligible financial year; and

- 1 (c) arrange for the audit team leader to give the person a written  
2 report setting out the results of the audit; and  
3 (d) give the Authority a copy of the audit report:  
4 (i) on the day on which the section 22A report is provided  
5 to the Authority; and  
6 (ii) in the manner specified in the regulations.

7 Civil penalty:

- 8 (a) for an individual—200 penalty units; or  
9 (b) otherwise—1,000 penalty units.

10 Note: Under section 30, a person may be liable for an additional civil  
11 penalty for each day after the day mentioned in paragraph (d) for  
12 which the person fails to provide an audit report in accordance with  
13 this section.

- 14 (3) The regulations may specify:  
15 (a) the type of audit to be carried out; and  
16 (b) the matters to be covered by the audit; and  
17 (c) the form of the audit report and the kinds of details it is to  
18 contain.
- 19 (4) The person must provide the audit team leader and any audit team  
20 members with all reasonable facilities and assistance necessary for  
21 the effective exercise of the audit team leader's duties under this  
22 Act.

23 Civil penalty:

- 24 (a) for an individual—50 penalty units; or  
25 (b) otherwise—250 penalty units.

- 26 (5) For the purposes of this section, a person's *gross emissions*  
27 *number* for an eligible financial year is the total of the person's  
28 provisional emissions numbers (if any) for the eligible financial  
29 year.

30 **74B Audits of non-group entities—compliance**

- 31 (1) This section applies if the Authority has reasonable grounds to  
32 suspect that a non-group entity has contravened, is contravening, or  
33 is proposing to contravene, this Act or the regulations.

- 1 (2) The Authority may, by written notice given to the non-group  
2 entity, require the non-group entity to:
- 3 (a) appoint as an audit team leader:
- 4 (i) a registered greenhouse and energy auditor of the  
5 non-group entity's choice; or
- 6 (ii) if the Authority specifies a registered greenhouse and  
7 energy auditor in the notice—that auditor; or
- 8 (iii) if the Authority specifies more than one registered  
9 greenhouse and energy auditor in the notice—any one  
10 of those auditors; and
- 11 (b) arrange for the audit team leader to carry out an audit on one  
12 or more aspects of the non-group entity's compliance with  
13 this Act or the regulations; and
- 14 (c) arrange for the audit team leader to give the non-group entity  
15 a written report setting out the results of the audit; and
- 16 (d) give the Authority a copy of the audit report on or before the  
17 day specified in the notice.
- 18 (3) The notice must specify:
- 19 (a) the type of audit to be carried out; and
- 20 (b) the matters to be covered by the audit; and
- 21 (c) the form of the audit report and the kinds of details it is to  
22 contain.
- 23 (4) A non-group entity must provide the audit team leader and any  
24 audit team members with all reasonable facilities and assistance  
25 necessary for the effective exercise of the audit team leader's  
26 duties under this Act.
- 27 Civil penalty:
- 28 (a) for an individual—50 penalty units; or
- 29 (b) otherwise—250 penalty units.
- 30 (5) If the Authority gives a non-group entity written notice under  
31 subsection (2), the non-group entity must comply with the  
32 requirements of the notice.
- 33 Civil penalty:
- 34 (a) for an individual—200 penalty units; or
- 35 (b) otherwise—1,000 penalty units.



1 ***Ozone Protection and Synthetic Greenhouse Gas***  
2 ***Management Act 1989***

3 **246 Section 7 (definition of *licence period*)**

4 Repeal the definition, substitute:

5 ***licence period:***

6 (a) in relation to an SGG licence—means a period referred to in  
7 section 8AA; or

8 (b) in relation to any other licence—means a period referred to in  
9 section 8A.

10 **247 Section 7 (definition of *pre-charged equipment*)**

11 Repeal the definition.

12 **248 Section 7 (definition of *pre-charged equipment licence*)**

13 Repeal the definition.

14 **249 Section 7 (definition of *SGG or synthetic greenhouse***  
15 ***gas*)**

16 Omit “or a PFC”, substitute “, a PFC or sulphur hexafluoride”.

17 **250 Section 7**

18 Insert:

19 ***sulphur hexafluoride*** means the substance referred to in Part XI of  
20 Schedule 1, whether existing alone or in a mixture.

21 **251 After section 8**

22 Insert:

23 **8AA Licence periods—SGG licences**

24 ***Scope***

25 (1) This section applies in relation to an SGG licence.

1 *Licence period*

2 (2) For the purposes of this Act, each of the following is a *licence*  
3 *period*:

- 4 (a) the 2-year period beginning on 1 January 2002;  
5 (b) the 2-year period beginning on 1 January 2004;  
6 (c) the 2-year period beginning on 1 January 2006;  
7 (d) the 2-year period beginning on 1 January 2008;  
8 (e) the 30-month period beginning on 1 January 2010;  
9 (f) the 2-year period beginning on 1 July 2012;  
10 (g) each later 2-year period.

11 **252 Before subsection 8A(1)**

12 Insert:

13 *Scope*

14 (1A) This section applies in relation to a licence (other than an SGG  
15 licence).

16 Note 1: The heading to section 8A is altered by adding at the end “—**other licences**”.

17 Note 2: The following heading to subsection 8A(1) is inserted “*Licence period*”.

18 **253 Subsection 9(1)**

19 After “Schedule 1”, insert “(other than a substance referred to in  
20 Part IX, X or XI of that Schedule)”.

21 Note: The heading to section 9 is altered by inserting “(**other than SGGs**)” after  
22 “**substances**”.

23 **254 After section 9**

24 Insert:

25 **9A SGGs in manufactured products**

26 For the purposes of Parts III, IV and VII, a substance referred to in  
27 Part IX, X or XI of Schedule 1 is to be treated as not being referred  
28 to in that Schedule if the substance is in a manufactured product  
29 that consists in part of that substance only because the substance  
30 was used in the manufacturing process.

31 **255 Subsection 13(6A)**

---

1 Repeal the subsection.

2 **256 Paragraph 13A(1)(c)**

3 Omit “licence;”, substitute “licence.”.

4 **257 Paragraph 13A(1)(d)**

5 Repeal the paragraph.

6 **258 Subsection 13A(5)**

7 Repeal the subsection.

8 **259 Subsection 16(3)**

9 Omit “licence, an SGG licence or a pre-charged equipment licence”,  
10 substitute “licence or an SGG licence”.

11 **260 Subsection 19A(2)**

12 Omit “or a pre-charged equipment licence”.

13 **261 Subsection 46(1A)**

14 Repeal the subsection, substitute:

15 (1A) Subsection (1) does not apply to an SGG.

16 Note: The heading to section 46 is altered by omitting “and pre-charged equipment” and  
17 substituting “(other than SGGs)”.

18 **262 Subsection 46(1B)**

19 Repeal the subsection.

20 **263 Subsection 46(1BA)**

21 Repeal the subsection.

22 **264 Subsection 46(1C)**

23 Repeal the subsection.

24 **265 Subsection 46(2AA)**

25 Repeal the subsection.

26 **266 Subsection 46(2A)**

27 Omit “or (2AA)”.

---

1 **267 Subsection 46(2B)**

2 Omit “or (2AA)”.

3 **268 After section 46**

4 Insert:

5 **46A Quarterly reports by manufacturers, importers and exporters**  
6 **of SGGs**

7 *Manufacturer*

8 (1) If:

9 (a) a person manufactures an SGG during:

10 (i) the quarter beginning on 1 July 2011; or

11 (ii) a later quarter; and

12 (b) the manufacture is not in circumstances prescribed by  
13 regulations made for the purposes of paragraph 13(1A)(b);

14 the person must, within 15 days after the end of the quarter, give  
15 the Minister a report in accordance with the regulations.

16 *Importer*

17 (2) If:

18 (a) a person imports an SGG during:

19 (i) the quarter beginning on 1 July 2011; or

20 (ii) a later quarter; and

21 (b) the import is not in circumstances prescribed by regulations  
22 made for the purposes of paragraph 13(1A)(b); and

23 (c) the import is not covered by paragraph 68(1)(d) of the  
24 *Customs Act 1901*;

25 the person must, within 15 days after the end of the quarter, give  
26 the Minister a report in accordance with the regulations.

27 Note: Paragraph 68(1)(d) of the *Customs Act 1901* covers personal or  
28 household effects of a passenger, or a member of a crew, of a ship or  
29 aircraft.

30 *Exporter*

31 (3) If:

32 (a) a person exports an SGG during:

---

- 1 (i) the quarter beginning on 1 July 2011; or  
2 (ii) a later quarter; and  
3 (b) the export is not in circumstances prescribed by regulations  
4 made for the purposes of paragraph 13(1A)(b);  
5 the person must, within 15 days after the end of the quarter, give  
6 the Minister a report in accordance with the regulations.

7 *Offence*

- 8 (4) A person commits an offence if:  
9 (a) the person is subject to a requirement under subsection (1),  
10 (2) or (3); and  
11 (b) the person omits to do an act; and  
12 (c) the omission breaches the requirement.

13 Penalty: 10 penalty units.

- 14 (5) An offence under subsection (4) is an offence of strict liability.

15 Note: For strict liability, see section 6.1 of the *Criminal Code*.

16 *Copy of report to be given to the Australian Climate Change*  
17 *Regulatory Authority*

- 18 (6) If a report under subsection (1), (2) or (3) is given to the Minister,  
19 the Minister must:  
20 (a) make a copy of the report; and  
21 (b) give the copy to the Australian Climate Change Regulatory  
22 Authority.

23 **269 At the end of paragraph 65D(b)**

24 Add:

- 25 (iii) recovery and destruction programs for ODSs and SGGs;

26 **270 At the end of Schedule 1**

27 Add:

28 **Part XI—Sulphur hexafluoride**  
29

---

**Substance**

---

Sulphur hexafluoride (SF<sub>6</sub>)

---

1

2 **271 Paragraph 10(1)(a) of Schedule 4**

3 After “CFC refrigerant”, insert “or an HCFC refrigerant”.

4 **272 Paragraph 10(1)(b) of Schedule 4**

5 Repeal the paragraph, substitute:

6 (b) the equipment is designed to operate by using a CFC  
7 refrigerant or an HCFC refrigerant (whether or not it is also  
8 designed to operate using another substance); or

9 **273 At the end of paragraph 10(1)(c) of Schedule 4**

10 Add “or an HCFC”.

1 **Division 2—Application and transitional provisions**

2 **274 Application—registration and reports under the *National***  
3 ***Greenhouse and Energy Reporting Act 2007***

4 (1) Despite the repeal of section 18 of the *National Greenhouse and Energy*  
5 *Reporting Act 2007* by this Part, that section continues to apply after the  
6 commencement of this item, in relation to an application for  
7 deregistration that was made before the commencement of this item, as  
8 if that repeal had not happened.

9 (2) Despite the amendment of paragraph 56(b) of the *National Greenhouse*  
10 *and Energy Reporting Act 2007* made by this Part, that paragraph  
11 continues to apply after the commencement of this item, in relation to a  
12 decision under section 18 of that Act, as if that amendment had not been  
13 made.

14 (3) The amendments of the *National Greenhouse and Energy Reporting Act*  
15 *2007* made by this Part, in so far as they are relevant to determining  
16 whether a controlling corporation's group meets a threshold under  
17 section 13 of that Act for a financial year, apply in relation to a  
18 threshold for:

- 19 (a) the financial year beginning on 1 July 2011; or  
20 (b) a later financial year.

21 (4) The amendments of the *National Greenhouse and Energy Reporting Act*  
22 *2007* made by this Part, in so far as they relate to reports under  
23 section 19 of that Act, apply in relation to reports for:

- 24 (a) the financial year beginning on 1 July 2011; or  
25 (b) a later financial year.

26 **275 Application—civil penalty orders under the *National***  
27 ***Greenhouse and Energy Reporting Act 2007***

28 The amendments of section 31 of the *National Greenhouse and Energy*  
29 *Reporting Act 2007* made by this Part apply in relation to proceedings  
30 instituted after the commencement of this item.

31 **276 Application—liability of executive officers under the**  
32 ***National Greenhouse and Energy Reporting Act 2007***

1           The amendments of sections 47 and 48 of the *National Greenhouse and*  
2           *Energy Reporting Act 2007* made by this Part apply in relation to a  
3           contravention of a civil penalty provision that occurs after the  
4           commencement of this item.

5           **277 Transitional—reports under the *Ozone Protection and***  
6           ***Synthetic Greenhouse Gas Management Act 1989* for**  
7           **pre-commencement quarters**

8           Despite the amendments of section 46 of the *Ozone Protection and*  
9           *Synthetic Greenhouse Gas Management Act 1989* made by this Part,  
10          that section continues to apply, in relation to a quarter ending before the  
11          commencement of this item, as if those amendments had not been  
12          made.

13          **278 Transitional—regulations**

14          The Governor-General may make regulations in relation to transitional  
15          matters arising out of the amendments made by this Part.

1 **Part 3—Amendments relating to facility reporting**  
2 **threshold**

3 *National Greenhouse and Energy Reporting Act 2007*

4 **279 Subparagraph 13(1)(d)(i)**

5 Omit “25 kilotonnes”, substitute “10 kilotonnes”.

6 **280 Application**

7 To avoid doubt, the amendment of subparagraph 13(1)(d)(i) of the  
8 *National Greenhouse and Energy Reporting Act 2007* made by this Part  
9 applies in relation to a threshold for:

- 10 (a) the financial year beginning on 1 July 2012; or  
11 (b) a later financial year.

1 **Part 4—Amendments contingent on the**  
2 **commencement of Schedule 1 to the**  
3 **National Greenhouse and Energy Reporting**  
4 **Amendment Act 2009**

5 *National Greenhouse and Energy Reporting Act 2007*

6 **281 Subparagraphs 73(2)(a)(ii) and (iii)**

7 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

8 **282 Subsection 73A(1)**

9 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

10 **283 Subsection 73A(2)**

11 Omit “Greenhouse and Energy Data Officer” (wherever occurring),  
12 substitute “Authority”.

13 **284 Subsection 73A(5)**

14 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

15 **285 Subsections 74A(1) and (2)**

16 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

17 **286 Subsections 75A(1), (2), (3), (4) and (7)**

18 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

19 **287 Subsection 75A(7)**

20 Omit “signed”, substitute “written”.

21 **288 Subsection 75A(7)**

22 Omit “Greenhouse and Energy Data Officer’s”, substitute  
23 “Authority’s”.

24 **289 Subsection 75A(8)**

25 Omit “Greenhouse and Energy Data Officer”, substitute “Authority”.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

## Schedule 2—Taxation amendments

### *A New Tax System (Goods and Services Tax) Act 1999*

#### **1 After subsection 9-10(3A)**

Insert:

(3B) For the avoidance of doubt, a supply of:

(a) an \*eligible emissions unit; or

(b) a \*Kyoto unit;

is a supply of a personal property right or personal property rights.

#### **2 At the end of section 38-190**

Add:

(5) A supply of:

(a) an \*eligible emissions unit; or

(b) a \*Kyoto unit;

is taken, for the purposes of the table in subsection (1), not to be a supply that is directly connected with \*real property.

#### **3 Section 195-1**

Insert:

*eligible emissions unit* has the same meaning as in the *Safe Climate (Emissions Trading Scheme) Act 2009*.

#### **4 Section 195-1**

Insert:

*Kyoto unit* has the same meaning as in the *Safe Climate (Emissions Trading Scheme) Act 2009*.

#### **5 Section 195-1 (paragraph (c) of the definition of *real property*)**

Omit “to land.”, substitute “to land;”.

#### **6 Section 195-1 (at the end of the definition of *real property*, after paragraph (c))**

---

1 Add:  
2 but does not include:  
3 (d) an \*eligible emissions unit; or  
4 (e) a \*Kyoto unit.

5 ***Income Tax Assessment Act 1936***

6 **7 Subsection 136AB(2)**

7 Omit “section 70-20”, substitute “sections 70-20, 420-20 and 420-30”.

8 ***Income Tax Assessment Act 1997***

9 **8 Section 10-5 (after the table item headed “recoupment”)**

10 Insert:  
**registered emissions units**  
disposal of ..... 420-25  
disposal for a non-commercial purpose..... 420-40  
difference between opening and closing value of..... 420-45

11 **9 Section 12-5 (after the table item headed “regional**  
12 **headquarters (RHQs)”**

13 Insert:  
**registered emissions units**  
expenditure incurred in becoming the holder of..... 420-15  
expenditure incurred in ceasing to hold..... 420-42  
excess of opening over closing value of..... 420-45

14 **10 Subsection 20-30(1) (after table item 1.27)**

15 Insert:  
16 1.27A 420-15 registered emissions unit  
17

18 **11 Subdivision 40-J**

19 Repeal the Subdivision.

20 **12 At the end of Subdivision 70-A**

1 Add:

2 **70-12 Registered emissions units**

3 A \*registered emissions unit is not \*trading stock.

4 **13 At the end of section 70-30 (before the note)**

5 Add:

6 (6) Subsection (1) does not apply if:

- 7 (a) you start holding an item as \*trading stock; and  
8 (b) immediately before you started holding the item as trading  
9 stock, you \*held the item as a \*registered emissions unit.

10 **14 Section 70-110**

11 Before “If you stop”, insert “(1)”.

12 **15 At the end of section 70-110 (after example 2, before the  
13 note)**

14 Add:

15 (2) This section does not apply if:

- 16 (a) you stop holding an item as \*trading stock; and  
17 (b) immediately after you stopped holding the item as trading  
18 stock, you start to \*hold the item as a \*registered emissions  
19 unit.

20 **16 Section 104-5 (before table item relating to CGT event K2)**

21 Insert:

<p>K1 As the result of an incoming international transfer of an emissions unit from your foreign account or your nominee’s foreign account, you start to hold the unit as a registered emissions unit</p>	<p>when you start to hold the unit as a registered emissions unit</p>	<p>market value of unit <i>less</i> its cost base</p>	<p>reduced cost base of unit <i>less</i> its market value</p>
---	---	---	---

[See section 104-205]

1 **17 Before section 104-210**

2 Insert:

3 **104-205 Incoming international transfer of emissions unit: CGT**  
 4 **event K1**

5 (1) *CGT event K1* happens if:

6 (a) either:

7 (i) an \*international emissions unit is transferred from your  
 8 foreign account (within the meaning of the *Safe Climate*  
 9 *(Emissions Trading Scheme) Act 2009*) to your Registry  
 10 account (within the meaning of that Act) or your  
 11 nominee’s Registry account (within the meaning of that  
 12 Act); or

13 (ii) an \*international emissions unit is transferred from your  
 14 nominee’s foreign account (within the meaning of the  
 15 *Safe Climate (Emissions Trading Scheme) Act 2009*) to  
 16 your Registry account (within the meaning of that Act)  
 17 or your nominee’s Registry account (within the meaning  
 18 of that Act); and

19 (b) as a result of the transfer, you start to \*hold the unit as a  
 20 \*registered emissions unit; and

21 (c) just before the transfer, the unit was neither your \*trading  
 22 stock nor your \*revenue asset.

1 (2) The time of the event is when you start to \*hold the unit as a  
2 \*registered emissions unit.

3 (3) You make a *capital gain* if the unit's \*market value (just before  
4 you started to \*hold the unit as a \*registered emissions unit) is *more*  
5 than its \*cost base. You make a *capital loss* if that market value is  
6 *less* than its \*reduced cost base.

7 **18 Section 112-97 (after table item 18)**

8 Insert:

18A	You cease to hold a registered emissions unit as the result of an outgoing international transfer of an emissions unit	First element of cost base and reduced cost base	Section 420-35
-----	--	--	----------------

9 **19 After section 118-13**

10 Insert:

11 **118-15 Registered emissions units**

12 (1) A \*capital gain or \*capital loss you make from a \*registered  
13 emissions unit is disregarded.

14 (2) A \*capital gain or \*capital loss you make from a right to receive a  
15 \*free Australian emissions unit is disregarded.

16 **20 Subsection 122-25(2) (paragraph (d) of the cell at table**  
17 **item 1, column headed "This Subdivision does not**  
18 **apply to:")**

19 Omit "creation", substitute "creation; or".

20 **21 Subsection 122-25(2) (at the end of the cell at table item 1,**  
21 **column headed "This Subdivision does not apply to:")**

22 Add:

(e) an asset that becomes a \*registered emissions unit \*held by the company just after the \*disposal or creation

1 **22 Subsection 122-25(2) (paragraph (c) of the cell at table**  
 2 **item 2, column headed “This Subdivision does not**  
 3 **apply to:”)**

4 Omit “disposed of it”, substitute “disposed of it); or”.

5 **23 Subsection 122-25(2) (at the end of the cell at table item 2,**  
 6 **column headed “This Subdivision does not apply to:”)**

7 Add:

- (d) an asset that becomes a \*registered emissions unit \*held by the company just after the \*disposal or creation (unless it was a registered emissions unit held by you when you disposed of it)

8 **24 At the end of subsection 122-25(3)**

9 Add:

10 ; or (d) a \*registered emissions unit.

11 **25 At the end of section 124-75**

12 Add:

- (6) The other asset cannot become a \*registered emissions unit \*held by you just after you \*acquire it.

15 **26 Subsection 126-50(2)**

16 Omit all the words from and including “be” to the end of the subsection,  
 17 substitute:

18 be:

- 19 (a) \*trading stock of the recipient company just after the time of  
 20 the trigger event; or
- 21 (b) a \*registered emissions unit \*held by the recipient company  
 22 just after the time of the trigger event.

23 **27 After subsection 126-50(3)**

24 Insert:

25 (3A) If:

- 26 (a) the roll-over asset is an option referred to in Division 134;  
 27 and

1 (b) the recipient company \*acquires another \*CGT asset by  
2 exercising the option;  
3 the other asset cannot become a \*registered emissions unit \*held by  
4 the recipient company just after the recipient company acquired it.

5 **28 At the end of Subdivision 230-H**

6 Add:

7 **230-481 Registered emissions units**

8 This Division does not apply to a gain or loss that you make from a  
9 \*registered emissions unit.

10 **29 After Part 3-45**

11 Insert:

12 **Part 3-50—Emissions trading scheme**

13 **Division 420—Registered emissions units**

14 **Table of Subdivisions**

15		Guide to Division 420
16	420-A	Registered emissions units
17	420-B	Acquiring registered emissions units
18	420-C	Disposing of registered emissions units etc.
19	420-D	Accounting for registered emissions units you hold at the start 20 or end of the income year
21	420-E	Exclusivity of Division

22 **Guide to Division 420**

23 **420-1 What this Division is about**

24 This Division deals with amounts you can deduct, and amounts  
25 included in your assessable income, because of these situations:

- 26
- you acquire a registered emissions unit;

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

- you hold a registered emissions unit at the start or the end of the income year;
- you dispose of a registered emissions unit.

**Table of sections**

420-5 The 4 key features of tax accounting for registered emissions units

**420-5 The 4 key features of tax accounting for registered emissions units**

The purpose of income tax accounting for registered emissions units is to produce the same tax treatment, irrespective of your purpose in acquiring or holding the registered emissions units.

There are 4 key features:

- (1) You bring your gross expenditure and gross proceeds to account, not your net profits and losses on disposal of a registered emissions unit.
- (2) The gross expenditure is deductible.
- (3) The gross proceeds are assessable income.
- (4) You must bring to account any difference between the value of your registered emissions units held at the start and at the end of the income year. This is done in such a way that:
  - (a) any increase in value is included in assessable income; and
  - (b) any decrease in value is a deduction.

**Subdivision 420-A—Registered emissions units**

**Table of sections**

420-10 Meaning of *registered emissions unit*  
 420-12 Meaning of *hold* a registered emissions unit

**420-10 Meaning of *registered emissions unit***

*A registered emissions unit is:*

1 (a) an eligible emissions unit (within the meaning of the *Safe*  
2 *Climate (Emissions Trading Scheme) Act 2009*); or

3 (b) a Kyoto unit (within the meaning of that Act);  
4 for which there is an entry in a Registry account (within the  
5 meaning of that Act).

6 Note 1: Eligible emissions units are units that can be surrendered to meet an  
7 obligation under the *Safe Climate (Emissions Trading Scheme) Act*  
8 *2009*.

9 Note 2: Kyoto units can be entered in Registry accounts under the *Safe*  
10 *Climate (Emissions Trading Scheme) Act 2009*. Certain types of  
11 Kyoto units are eligible emissions units. Other types of Kyoto units  
12 are not eligible emissions units.

### 13 **420-12 Meaning of *hold* a registered emissions unit**

14 (1) You ***hold*** a \*registered emissions unit if you are the registered  
15 holder (within the meaning of the *Safe Climate (Emissions Trading*  
16 *Scheme) Act 2009*) of the unit.

17 (2) However, if the registered holder (within the meaning of the *Safe*  
18 *Climate (Emissions Trading Scheme) Act 2009*) of a \*registered  
19 emissions unit holds the unit as nominee for another entity:

- 20 (a) the other entity is taken to ***hold*** the unit; and  
21 (b) the registered holder is taken not to hold the unit.

### 22 **Subdivision 420-B—Acquiring registered emissions units**

#### 23 **Table of sections**

24	420-15	What you can deduct
25	420-20	Non-arm's length transactions and transactions with associates
26	420-21	Incoming international transfers of emissions units
27	420-22	Becoming taxable in Australia on the proceeds of sale of registered 28 emissions units

### 29 **420-15 What you can deduct**

30 (1) You can deduct expenditure to the extent that you incur it in  
31 becoming the \*holder of a \*registered emissions unit.

32 Note: An Australian emissions unit is an example of a registered emissions  
33 unit. You can become the holder of an Australian emissions unit as a  
34 result of the unit being issued to you under the *Safe Climate*  
35 *(Emissions Trading Scheme) Act 2009* or as a result of your  
36 acquisition of the unit from another entity.

---

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34

*Timing*

- (2) You deduct the expenditure in the income year in which you start to \*hold the \*registered emissions unit.

*Free Australian emissions units*

- (3) You cannot deduct under this section expenditure you incur in becoming the \*holder of an \*Australian emissions unit issued to you in accordance with Part 11 (destruction of synthetic greenhouse gases) of the *Safe Climate (Emissions Trading Scheme) Act 2009* unless you incur the expenditure in preparing or lodging an application for a certificate of eligible synthetic greenhouse gas destruction (within the meaning of that Act).

*No deduction if sale proceeds would not be assessable*

- (4) You cannot deduct under this section expenditure you incur in becoming the \*holder of a \*registered emissions unit if, assuming that you had sold the unit to someone else immediately after you started to \*hold the unit, the proceeds of the sale would not have been included in your assessable income under section 420-25.

Note: Under the *International Tax Agreements Act 1953*, for some foreign residents, the proceeds of the sale of a registered emissions unit are not assessable income in Australia.

**420-20 Non-arm’s length transactions and transactions with associates**

- (1) If:
  - (a) an entity becomes the \*holder of a \*registered emissions unit; and
  - (b) either:
    - (i) the entity and the previous holder of the unit did not deal with each other at arm’s length; or
    - (ii) the previous holder is the entity’s \*associate; and
  - (c) the entity did not pay or give consideration equal to the \*market value of the unit for becoming the holder of the unit; the entity is treated as if:
    - (d) the entity had incurred expenditure in becoming the holder of the unit; and

- 1 (e) the amount of the expenditure were equal to that market  
2 value.
- 3 (2) This section does not apply if a \*registered emissions unit \*held by  
4 an individual just before the individual's death:  
5 (a) devolves to the individual's \*legal personal representative; or  
6 (b) \*passes to a beneficiary in the individual's estate.
- 7 (3) This section does not apply to the issue of an \*Australian emissions  
8 unit under the *Safe Climate (Emissions Trading Scheme) Act 2009*.
- 9 Note: In the application of Division 13 of Part III of the *Income Tax*  
10 *Assessment Act 1936* (about international transfer-pricing  
11 arrangements), this section is disregarded—see subsection 136AB(2)  
12 of the *Income Tax Assessment Act 1936*.

13 **420-21 Incoming international transfers of emissions units**

14 *Unit held as trading stock or as a revenue asset*

- 15 (1) If:  
16 (a) either:  
17 (i) an \*international emissions unit is transferred from your  
18 foreign account (within the meaning of the *Safe Climate*  
19 *(Emissions Trading Scheme) Act 2009*) to your Registry  
20 account (within the meaning of that Act) or your  
21 nominee's Registry account (within the meaning of that  
22 Act); or  
23 (ii) an \*international emissions unit is transferred from your  
24 nominee's foreign account (within the meaning of the  
25 *Safe Climate (Emissions Trading Scheme) Act 2009*) to  
26 your Registry account (within the meaning of that Act)  
27 or your nominee's Registry account (within the meaning  
28 of that Act); and  
29 (b) as a result of the transfer, you start to \*hold the unit as a  
30 \*registered emissions unit; and  
31 (c) just before the transfer, the unit was your \*trading stock or  
32 \*revenue asset;  
33 you are treated as if:  
34 (d) just before the transfer, you had sold the unit to someone else  
35 for its \*cost; and

1 (e) you had, immediately after the sale, bought it back as a  
 2 registered emissions unit for the same amount.

3 Example: An Australian resident company carries on a business of trading in  
 4 emissions units. The units are trading stock. The company owns  
 5 10,000 emission reduction units (a type of international emissions  
 6 unit) that are registered in New Zealand. 5,000 of those emission  
 7 reduction units are transferred from the company's New Zealand  
 8 registry account to the company's Australian registry account.

9 The company is treated as having sold each unit to someone else at its  
 10 cost just before it became a registered emissions unit. As the unit was  
 11 previously held as trading stock, the unit ceases to be trading stock  
 12 (section 70-12). The cost of the unit just before it became a registered  
 13 emissions unit is included in the company's assessable income.

14 The company is also treated as having bought 5,000 registered  
 15 emissions units for the same amount. The company is entitled to a  
 16 deduction for that amount (section 420-15).

17 *Unit held otherwise than as trading stock or as a revenue asset*

18 (2) If:

19 (a) either:

20 (i) an \*international emissions unit is transferred from your  
 21 foreign account (within the meaning of the *Safe Climate*  
 22 *(Emissions Trading Scheme) Act 2009*) to your Registry  
 23 account (within the meaning of that Act) or your  
 24 nominee's Registry account (within the meaning of that  
 25 Act); or

26 (ii) an \*international emissions unit is transferred from your  
 27 nominee's foreign account (within the meaning of the  
 28 *Safe Climate (Emissions Trading Scheme) Act 2009*) to  
 29 your Registry account (within the meaning of that Act)  
 30 or your nominee's Registry account (within the meaning  
 31 of that Act); and

32 (b) as a result of the transfer, you start to \*hold the unit as a  
 33 \*registered emissions unit; and

34 (c) just before the transfer, the unit was neither your \*trading  
 35 stock nor your \*revenue asset;

36 you are treated as if:

37 (d) just before the transfer, you had sold the unit to someone else  
 38 for its \*market value just before the transfer; and

39 (e) you had, immediately after the sale, bought it back as a  
 40 registered emissions unit for the same amount.

1 **420-22 Becoming taxable in Australia on the proceeds of sale of**  
2 **registered emissions units**

3 If:

- 4 (a) you start to \*hold a \*registered emissions unit at a particular  
5 time; and  
6 (b) assuming that you had sold the unit to someone else  
7 immediately after you started to hold the unit, the proceeds of  
8 the sale would not have been included in your assessable  
9 income under section 420-25; and  
10 (c) you hold the unit until a later time (the *taxable status*  
11 *commencement time*), where the following conditions are  
12 satisfied:  
13 (i) assuming that you had sold the unit to someone else  
14 immediately before the taxable status commencement  
15 time, the proceeds of the sale would not have been  
16 included in your assessable income under  
17 section 420-25;  
18 (ii) assuming that you had sold the unit to someone else at  
19 the taxable status commencement time, the proceeds of  
20 the sale would have been included in your assessable  
21 income under section 420-25;

22 you are treated as if:

- 23 (d) immediately after the taxable status commencement time,  
24 you had bought the unit from someone else for its \*market  
25 value; and  
26 (e) you had started to hold the unit immediately after the taxable  
27 status commencement time instead of at the time mentioned  
28 in paragraph (a).

29 Note: Under the *International Tax Agreements Act 1953*, for some foreign  
30 residents, the proceeds of the sale of a registered emissions unit are  
31 not assessable income in Australia.

32 **Subdivision 420-C—Disposing of registered emissions units etc.**

33 **Table of sections**

34	420-25	Assessable income on disposal of registered emissions units
35	420-30	Non-arm's length transactions and transactions with associates
36	420-35	Outgoing international transfers of emissions units
37	420-40	Disposal of registered emissions units for a purpose other than gaining
38		assessable income

---



1 Note: In the application of Division 13 of Part III of the *Income Tax*  
2 *Assessment Act 1936* (about international transfer-pricing  
3 arrangements), this section is disregarded—see subsection 136AB(2)  
4 of the *Income Tax Assessment Act 1936*.

5 **420-35 Outgoing international transfers of emissions units**

- 6 If:
- 7 (a) you stop \*holding as a \*registered emissions unit an  
8 \*international emissions unit; and
  - 9 (b) you do so as a result of the transfer of the unit to:
    - 10 (i) your foreign account (within the meaning of the *Safe*  
11 *Climate (Emissions Trading Scheme) Act 2009*); or
    - 12 (ii) your nominee's foreign account (within the meaning of  
13 the *Safe Climate (Emissions Trading Scheme) Act*  
14 *2009*);
- 15 you are treated as if:
- 16 (c) just before the transfer, you had sold the unit to someone else  
17 for its \*market value just before the transfer; and
  - 18 (d) you had, immediately after the sale, bought it back for the  
19 same amount.

20 Example: An Australian resident company carries on a business of trading in  
21 emission units. The company owns 10,000 emission reduction units (a  
22 type of international emissions unit) that are registered in Australia.  
23 5,000 of those units are transferred from the company's Australian  
24 registry account to the company's New Zealand registry account.

25 The company is treated as having sold each unit to someone else at its  
26 market value just before it stopped being a registered emissions unit.  
27 As the unit was a registered emissions unit, the market value is  
28 included in the company's assessable income (section 420-25).

29 The company is also treated as having bought 5,000 emission  
30 reduction units for the same amount. As those units are trading stock,  
31 the company may be able to deduct that amount under section 8-1.

32 **420-40 Disposal of registered emissions units for a purpose other**  
33 **than gaining assessable income**

- 34 (1) If:
- 35 (a) you incur expenditure in:
    - 36 (i) becoming the \*holder of a \*registered emissions unit; or
    - 37 (ii) ceasing to hold a registered emissions unit; and

- 1 (b) you have deducted or can deduct the expenditure under
- 2 section 420-15 or 420-42; and
- 3 (c) you cease to hold the unit in a particular income year; and
- 4 (d) the cessation is neither:
  - 5 (i) in gaining or producing your assessable income; nor
  - 6 (ii) in carrying on a \*business for the purpose of gaining or
  - 7 producing your assessable income; and
- 8 (e) section 420-30 (non-arm's length transactions and
- 9 transactions with associates) did not apply to you ceasing to
- 10 hold the unit;
- 11 your assessable income of that income year includes an amount
- 12 equal to the amount you have deducted or can deduct.

13 *Death*

- 14 (2) If:
  - 15 (a) the cessation is because of your death; and
  - 16 (b) the \*registered emissions unit devolves to your \*legal
  - 17 personal representative;
  - 18 then:
    - 19 (c) your legal personal representative is treated as having bought
    - 20 the unit for the amount included in your assessable income
    - 21 under subsection (1); and
    - 22 (d) if the unit \*passes to a beneficiary in your estate:
      - 23 (i) your legal personal representative is treated as having
      - 24 disposed of the unit for the amount included in your
      - 25 assessable income under subsection (1); and
      - 26 (ii) the beneficiary is treated as having bought the unit for
      - 27 the amount included in your assessable income under
      - 28 subsection (1).
- 29 (3) If:
  - 30 (a) the cessation is because of your death; and
  - 31 (b) the \*registered emissions unit \*passes to a beneficiary in your
  - 32 estate without devolving to your \*legal personal
  - 33 representative;
  - 34 the beneficiary is treated as having bought the unit for the amount
  - 35 included in your assessable income under subsection (1).

1                                    *Transfer during life—treatment of acquirer*

- 2                    (4) If:
- 3                            (a) the cessation is because of the transfer of the unit to another
- 4    entity; and
- 5                            (b) neither subsection (2) nor (3) applies;
- 6                    the other entity is treated as having bought the unit for the amount
- 7                    included in your assessable income under subsection (1).
- 8                    (5) If subsection (4) applies to the transfer of the unit to another entity:
- 9                            (a) you must inform the other entity that, as a result of
- 10    subsection (4) applying, the other entity is treated as having
- 11    bought the unit for a particular amount; and
- 12                            (b) you must do so:
- 13    (i) at, or as soon as practicable after, the time of the
- 14    transfer; or
- 15    (ii) by a later time allowed by the Commissioner.

16                                    *Source*

- 17                    (6) An amount included in your assessable income under
- 18                            subsection (1) is taken, for the purposes of the \*income tax laws, to
- 19                            have a source in Australia.

20                    **420-41 Ceasing to be taxable in Australia on the proceeds of sale of**

21                                    **registered emissions units**

- 22                    If:
- 23                            (a) you start to \*hold a \*registered emissions unit; and
- 24                            (b) assuming that you had sold the unit to someone else
- 25    immediately after you started to hold the unit, the proceeds of
- 26    sale would have been included in your assessable income
- 27    under section 420-25; and
- 28                            (c) you hold the unit until a later time (the *taxable status*
- 29    *cessation time*), where the following conditions are satisfied:
- 30    (i) assuming that you had sold the unit to someone else
- 31    immediately before the taxable status cessation time, the
- 32    proceeds of the sale would have been included in your
- 33    assessable income under section 420-25;
- 34    (ii) assuming that you had sold the unit to someone else at
- 35    the taxable status cessation time, the proceeds of sale

- 1 would not have been included in your assessable income  
 2 under section 420-25;  
 3 you are treated as if:  
 4 (d) just before the taxable status cessation time, you had sold the  
 5 unit to someone else for its \*market value; and  
 6 (e) you had, at the taxable status cessation time, bought it back  
 7 for the same amount.  
 8 Note: Under the *International Tax Agreements Act 1953*, for some foreign  
 9 residents, the proceeds of the sale of a registered emissions unit are  
 10 not assessable income in Australia.

11 **420-42 Deduction for expenses incurred in ceasing to hold a**  
 12 **registered emissions unit**

- 13 (1) You can deduct expenditure to the extent that you incur it in  
 14 ceasing to \*hold a \*registered emissions unit.

15 *Timing*

- 16 (2) You deduct the expenditure in the income year in which you cease  
 17 to \*hold the \*registered emissions unit.

18 **Subdivision 420-D—Accounting for registered emissions units**  
 19 **you hold at the start or end of the income year**

20 **Table of sections**

21	420-45	You include the value of your registered emissions units in working out
22		your assessable income and deductions
23	420-50	Value of registered emissions units at start of income year
24	420-51	Valuation methods
25	420-52	FIFO cost method of working out the value of units
26	420-53	Actual cost method of working out the value of units
27	420-54	Market value method of working out the value of units
28	420-55	Valuation method for first income year at the end of which you held
29		registered emissions units
30	420-57	Valuation method for later income years at the end of which you held
31		registered emissions units
32	420-58	Value of registered emissions units at end of income year—
33		emissions-intensive trade-exposed assistance program
34	420-60	Cost of registered emissions units

1 **420-45 You include the value of your registered emissions units in**  
2 **working out your assessable income and deductions**

3 (1) You compare:

- 4 (a) the \*value of all \*registered emissions units you \*held at the  
5 start of the income year; and  
6 (b) the value of all registered emissions units you held at the end  
7 of the income year.

8 *Increase in value is included in assessable income*

9 (2) Your assessable income includes any excess of the \*value at the  
10 end of the income year over the value at the start of the income  
11 year.

12 *Decrease in value is a deduction*

13 (3) On the other hand, you can deduct any excess of the \*value at the  
14 start of the income year over the value at the end of the income  
15 year.

16 *Source*

17 (4) An amount included in your assessable income under  
18 subsection (2) is taken, for the purposes of the \*income tax laws, to  
19 have a source in Australia.

20 *Disregard value of unit if sale proceeds would not be assessable*

21 (5) For the purposes of this Subdivision, disregard the value of a  
22 \*registered emissions unit you held at the end of the income year if,  
23 assuming that you had sold the unit to someone else immediately  
24 after you started to \*hold the unit, the proceeds of the sale would  
25 not have been included in your assessable income under  
26 section 420-25.

27 Note: Under the *International Tax Agreements Act 1953*, for some foreign  
28 residents, the proceeds of the sale of a registered emissions unit are  
29 not assessable income in Australia.



- 1 (i) any of the registered emissions units are Australian  
2 emissions units that have the same vintage year; and  
3 (ii) that vintage year that is later than the financial year to  
4 which the income year relates;  
5 you must account for those units on a first-in first-out basis;  
6 and  
7 (c) if any of the registered emissions units are Kyoto units  
8 (within the meaning of the *Safe Climate (Emissions Trading*  
9 *Scheme) Act 2009*) that are not eligible international  
10 emissions units (within the meaning of that Act)—you must  
11 account for those units on a first-in first-out basis.

12 **420-53 Actual cost method of working out the value of units**

13 The *actual cost method* for working out the value of the \*registered  
14 emissions units you \*held at the end of the income year means that  
15 the value of the units is the \*cost of the units, and, for the purposes  
16 of the application of this Subdivision to you for the income year,  
17 you must not account for any of those units on a first-in first-out  
18 basis.

19 **420-54 Market value method of working out the value of units**

20 The *market value method* for working out the value of the  
21 \*registered emissions units you \*held at the end of the income year  
22 means that the value of the units is the \*market value of the units at  
23 the end of the income year.

24 **420-55 Valuation method for first income year at the end of which**  
25 **you held registered emissions units**

26 *Scope*

- 27 (1) This section applies if:  
28 (a) you \*held one or more \*registered emissions units at the end  
29 of an income year; and  
30 (b) the income year is the first income year at the end of which  
31 you held one or more registered emissions units.

32 *Choice of method*

- 33 (2) You may choose one of the following methods:
-

- 1 (a) the \*FIFO cost method;
- 2 (b) the \*actual cost method;
- 3 (c) the \*market value method;
- 4 for working out the **value** of the \*registered emissions units you
- 5 \*held at the end of the income year.

6 *FIFO cost method applies if no choice made*

- 7 (3) If you do not make a choice under subsection (2) for the income
- 8 year, the **value** of the \*registered emissions units you \*held at the
- 9 end of the income year is worked out using the \*FIFO cost method.

10 *Time for making choice*

- 11 (4) You must make a choice under subsection (2) before you lodge
- 12 your \*income tax return for the income year for which you make
- 13 the choice.

14 *No revocation of choice*

- 15 (5) A choice made under subsection (2) cannot be revoked.

16 *Emissions-intensive trade-exposed assistance program*

- 17 (6) This section has effect subject to section 420-58
- 18 (emissions-intensive trade-exposed assistance program).

19 **420-57 Valuation method for later income years at the end of which**  
 20 **you held registered emissions units**

21 *Scope*

- 22 (1) This section applies if:
  - 23 (a) you \*held one or more \*registered emissions units at the end
  - 24 of an income year (the **current income year**); and
  - 25 (b) the current income year is not the first income year at the end
  - 26 of which you held one or more registered emissions units.

27 *Choice of method*

- 28 (2) You may choose one of the following methods:
  - 29 (a) the \*FIFO cost method;

- 1 (b) the \*actual cost method;  
2 (c) the \*market value method;  
3 for working out the **value** of the \*registered emissions units you  
4 \*held at the end of the current income year.

5 *Previous method applies if no choice made*

- 6 (3) If you do not make a choice under subsection (2) for the current  
7 income year, the **value** of the \*registered emissions units you \*held  
8 at the end of the current income year is worked out using the  
9 method that applied to the most recent income year at the end of  
10 which you held one or more registered emissions units.

11 *Limitation on choice—before 2016-17 income year*

- 12 (4) If the current income year is before the 2016-17 income year, you  
13 must not make a choice under subsection (2) for the current income  
14 year if you have previously made a choice under that subsection  
15 for an earlier income year.

16 *Limitation on choice—2016-17 income year or a later income year*

- 17 (5) If the current income year is:  
18 (a) the 2016-17 income year; or  
19 (b) a later income year;  
20 you must not make a choice under subsection (2) for the current  
21 income year unless:  
22 (c) the same method applied for each of the 4 most recent  
23 income years at the end of which you \*held one or more  
24 \*registered emissions units; and  
25 (d) the method mentioned in paragraph (c) is different from the  
26 method to which your choice for the current income year  
27 relates.

28 *Limitation on choice—change from FIFO cost method to actual  
29 cost method*

- 30 (6) You must not choose under subsection (2) the \*actual cost method  
31 for the current income year if the \*FIFO cost method applied for  
32 the most recent income year at the end of which you \*held one or  
33 more \*registered emissions units.

1 *Time for making choice*

2 (7) You must make a choice under subsection (2) before you lodge  
 3 your \*income tax return for the income year for which you make  
 4 the choice.

5 *No revocation of choice*

6 (8) A choice made under subsection (2) cannot be revoked.

7 *Emissions-intensive trade-exposed assistance program*

8 (9) This section has effect subject to section 420-58  
 9 (emissions-intensive trade-exposed assistance program).

10 **420-58 Value of registered emissions units at end of income year—**  
 11 **emissions-intensive trade-exposed assistance program**

12 *Scope*

- 13 (1) This section applies to an \*Australian emissions unit with a  
 14 particular \*vintage year if:  
 15 (a) it was issued to you in accordance with the  
 16 emissions-intensive trade-exposed assistance program  
 17 (within the meaning of the *Safe Climate (Emissions Trading*  
 18 *Scheme) Act 2009*); and  
 19 (b) you \*held it throughout the period:  
 20 (i) beginning when it was issued to you; and  
 21 (ii) ending at the end of an income year that ended before  
 22 15 December in the financial year next following the  
 23 vintage year.

24 *Value*

- 25 (2) The **value** of the unit you held at the end of an income year that  
 26 ended during that period is a nil amount.
- 27 (3) For the purposes of:  
 28 (a) subsection 420-57(3); and  
 29 (b) paragraph 420-57(5)(c);

1 the method that applied to a previous income year mentioned in  
2 that subsection or paragraph, as the case may be, is the method that  
3 would have applied if this section had not been enacted.

4 **420-60 Cost of registered emissions units**

5 *Free Australian emissions units*

6 (1) If an \*Australian emissions unit was issued to you free of charge  
7 under the *Safe Climate (Emissions Trading Scheme) Act 2009*, the  
8 **cost** of the unit is its \*market value immediately after you began to  
9 \*hold the unit.

10 (2) Subsection (1) does not affect the operation of section 420-58.

11 *Other registered emissions units*

12 (3) If a \*registered emissions unit was not issued to you free of charge  
13 under the *Safe Climate (Emissions Trading Scheme) Act 2009*, the  
14 **cost** of the unit is the total of the expenditure that you:

- 15 (a) incurred in becoming the \*holder of the unit; and  
16 (b) can deduct under section 420-15.

17 **Subdivision 420-E—Exclusivity of Division**

18 **Table of sections**

19 420-65 Exclusivity of deductions etc.  
20 420-70 Exclusivity of assessable income etc.

21 **420-65 Exclusivity of deductions etc.**

22 *Expenditure incurred in becoming the holder of a registered*  
23 *emissions unit*

24 (1) You cannot deduct under any provision of this Act outside this  
25 Division any expenditure to the extent that you incur it in  
26 becoming the \*holder of a \*registered emissions unit.

27 (2) To the extent you incur expenditure in becoming the \*holder of a  
28 \*registered emissions unit, the expenditure is not to be taken into  
29 account in working out:

- 30 (a) an amount you can deduct; or
-

1 (b) an amount included in your assessable income;  
 2 under any provision of this Act outside this Division.

3 *Free Australian emissions units*

4 (3) Subsections (1) and (2) do not affect the application of a provision  
 5 of this Act outside this Division to expenditure you incur in  
 6 becoming the \*holder of an \*Australian emissions unit issued to  
 7 you in accordance with Part 11 (destruction of synthetic  
 8 greenhouse gases) of the *Safe Climate (Emissions Trading Scheme)*  
 9 *Act 2009* if you do not incur the expenditure in preparing or  
 10 lodging an application for a certificate of eligible synthetic  
 11 greenhouse gas destruction (within the meaning of that Act).

12 *Gifts and deductions*

13 (4) Subsections (1) and (2) do not affect the operation of Division 30  
 14 (deductions for gifts and contributions).

15 Note: If you make a gift or contribution, Division 30 applies in the normal  
 16 way to determine whether you can deduct the amount of the gift or  
 17 contribution.

18 *Expenditure incurred in ceasing to hold a registered emissions unit*

19 (5) You cannot deduct under any provision of this Act outside this  
 20 Division any expenditure to the extent that you incur it in ceasing  
 21 to \*hold a \*registered emissions unit.

22 **420-70 Exclusivity of assessable income etc.**

23 (1) An amount that you are entitled to receive because you ceased to  
 24 \*hold a \*registered emissions unit is not to be:  
 25 (a) included in your assessable income; or  
 26 (b) taken into account in working out your assessable income; or  
 27 (c) taken into account in working out an amount you can deduct;  
 28 under any provision of this Act outside this Division.

29 (2) Subsection (1) does not affect the operation of Division 6 so far as  
 30 that Division provides for the significance of residence or source  
 31 for the assessability of ordinary and statutory income.

32 Note: An amount included in your assessable income under this Division  
 33 may be ordinary or statutory income for the purposes of Division 6.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32

*Free Australian emissions units*

(3) An amount is not to be included in your assessable income under any provision of this Act outside this Division because an \*Australian emissions unit was issued to you in accordance with Part 11 (destruction of synthetic greenhouse gases) of the *Safe Climate (Emissions Trading Scheme) Act 2009*.

Note 1: A capital gain or capital loss you make from a registered emissions unit is disregarded (subsection 118-15(1)).

Note 2: A capital gain or capital loss you make from a right to receive a free Australian emissions unit is disregarded (subsection 118-15(2)).

**30 Paragraph 701-10(5)(a)**

After “\*trading stock”, insert “or a \*registered emissions unit”.

Note: The heading to subsection 701-10(5) is altered by adding at the end “*or registered emissions unit*”.

**31 Paragraph 701-25(2)(a)**

Repeal the paragraph, substitute:

(a) either:

- (i) the asset is \*trading stock of the \*head company; or
- (ii) the asset is a \*registered emissions unit and an asset of the head company; and

**32 Subsection 701-25(3) (note)**

After “trading stock”, insert “or registered emissions units”.

**33 Subsection 701-25(4)**

Omit “The asset is taken”, substitute “If subparagraph (2)(a)(i) applies, the asset is taken”.

**34 At the end of section 701-25 (after the note)**

Add:

*Setting value of registered emissions unit at tax-neutral amount*

(5) If subparagraph (2)(a)(ii) applies, the asset is taken to be an asset of the \*head company at the end of the income year (but not at the start of the next income year) and the head company’s \*value for the asset at that time is taken to be equal to:

- 1 (a) if the asset was \*held by the head company at the start of the
- 2 income year—the \*value of the asset at the start of the
- 3 income year; or
- 4 (b) otherwise—the expenditure incurred by the head company in
- 5 becoming the \*holder of the asset.

**35 Subsection 701-35(2)**

Repeal the subsection, substitute:

*Assets to which section applies*

- 6 (2) This section applies in relation to an asset if:
- 7 (a) the asset is \*trading stock of the entity just before it becomes
- 8 a \*subsidiary member of the group; or
- 9 (b) the asset is:
- 10 (i) a \*registered emissions unit; and
- 11 (ii) an asset of the entity;
- 12 just before it becomes a subsidiary member of the group.

**36 Subsection 701-35(3) (note)**

After “trading stock”, insert “or registered emissions units”.

**37 Subsection 701-35(4)**

Omit “The \*value of the”, substitute “If paragraph (2)(a) applies, the \*value of the”.

**38 At the end of section 701-35 (after the note)**

Add:

*Setting value of registered emissions unit at tax-neutral amount*

- 23 (5) If paragraph (2)(b) applies, the \*value of the \*registered emissions
- 24 unit at the end of the income year that ends, or, if section 701-30
- 25 applies, of the income year that is taken by subsection (3) of that
- 26 section to end, when the entity becomes a \*subsidiary member is
- 27 taken to be equal to:
- 28 (a) if the unit was \*held by the joining entity at the start of the
- 29 income year—the \*value of the unit at the start of the income
- 30 year; or
- 31

- 1 (b) otherwise—the expenditure incurred by the joining entity in  
2 becoming the \*holder of the unit.

3 **39 After subsection 701-55(3)**

4 Insert:

5 *Registered emissions unit provisions*

- 6 (3A) If Division 420 is to apply in relation to the asset, the expression  
7 means that the Division applies as if the asset were a \*registered  
8 emissions unit at the start of the income year in which the  
9 particular time occurs, and its value at that time were equal to the  
10 asset's \*tax cost setting amount.

11 **40 After subsection 705-30(1)**

12 Insert:

13 *Registered emissions units*

- 14 (1A) If an asset of the joining entity is a \*registered emissions unit, the  
15 joining entity's *terminating value* for the unit is equal to:  
16 (a) if the unit was \*held by the joining entity at the start of the  
17 income year—the \*value of the unit at the start of the income  
18 year; or  
19 (b) otherwise—the expenditure incurred by the joining entity in  
20 becoming the \*holder of the unit.

21 **41 Subsection 705-40(1)**

22 After “\*depreciating asset”, insert “, a \*registered emissions unit”.

23 Note: The heading to section 705-40 is altered by adding at the end “etc.”.

24 **42 Subsection 705-40(2)**

25 After “\*depreciating assets”, insert “, \*registered emissions units”.

26 **43 Paragraph 705-40(3)(b)**

27 After “\*depreciating asset”, insert “, to a \*registered emissions unit”.

28 **44 Subsection 705-57(1)**

29 After “\*depreciating assets”, insert “, \*registered emissions units”.

1 **45 Paragraph 705-57(2)(c)**

2 After “\*depreciating asset”, insert “, a \*registered emissions unit”.

3 **46 Subsection 705-163(1)**

4 After “\*depreciating assets”, insert “, \*registered emissions units”.

5 **47 Subsection 705-240(1)**

6 After “\*depreciating assets”, insert “, \*registered emissions units”.

7 **48 Subsection 713-225(4)**

8 Omit “or a \*depreciating asset”, substitute “, a \*depreciating asset or a  
9 \*registered emissions unit”.

10 Note: The heading to subsection 713-225(4) is altered by omitting “*or depreciating asset*”,  
11 and substituting “, *a depreciating asset or a registered emissions unit*”.

12 **49 Subsection 715-660(1) (after table item 2)**

13 Insert:

2A	A provision of Subdivision 420-D that provides for a choice	Valuing *registered emissions units
----	---	-------------------------------------

14 **50 At the end of section 719-165**

15 Add:

16 (3) Subsection 701-35(5) (setting value of registered emissions unit at  
17 tax-neutral amount) does not apply to the assets of the MEC  
18 joining entity if it is an \*eligible tier-1 company at the MEC joining  
19 time.

20 Note: The heading to section 719-165 is altered by inserting “**and registered emissions unit**  
21 **value**” after “**value**”.

22 **51 Subsection 995-1(1)**

23 Insert:

24 *actual cost method* of working out the \*value of a \*registered  
25 emissions unit has the meaning given by section 420-53.

26 **52 Subsection 995-1(1)**

27 Insert:

1                    *Australian emissions unit* has the same meaning as in the *Safe*  
2                    *Climate (Emissions Trading Scheme) Act 2009*.

3                    **53 Subsection 995-1(1) (paragraph (b) of the definition of**  
4                    **cost)**

5                    Omit “section 70-55.”, substitute “section 70-55; and”.

6                    **54 Subsection 995-1(1) (at the end of the definition of cost,**  
7                    **after the note)**

8                    Add:

9                    (c) *cost* of a \*registered emissions unit has the meaning given by  
10                    section 420-60.

11                    **55 Subsection 995-1(1)**

12                    Insert:

13                    *FIFO cost method* of working out the \*value of a \*registered  
14                    emissions unit has the meaning given by section 420-52.

15                    **56 Subsection 995-1(1)**

16                    Insert:

17                    *free Australian emissions unit* has the same meaning as in the *Safe*  
18                    *Climate (Emissions Trading Scheme) Act 2009*.

19                    **57 Subsection 995-1(1) (at the end of the definition of hold)**

20                    Add:

21                    ; and (c) *hold* a \*registered emissions unit has the meaning given by  
22                    section 420-12.

23                    **58 Subsection 995-1(1)**

24                    Insert:

25                    *international emissions unit* means:

26                    (a) a Kyoto unit (within the meaning of the *Safe Climate*  
27                    *(Emissions Trading Scheme) Act 2009*); or

28                    (b) a non-Kyoto international emissions unit (within the meaning  
29                    of that Act).

30                    **59 Subsection 995-1(1)**

---



**Schedule 2** Taxation amendments

---

1                    your assessable income, for the income year that is or includes that  
2                    period, because you cease to \*hold a \*registered emissions unit  
3                    during that period.